

The **NORTH CAROLINA REGISTER**

IN THIS ISSUE

FINAL DECISION LETTER

PROPOSED RULES

Environment, Health, and Natural Resources

Medical Examiners, Board of

Physical Therapy Examiners

State Personnel

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ARRC OBJECTIONS

RULES INVALIDATED BY JUDICIAL DECISION

ISSUE DATE: JULY 1, 1991

Volume 6 • Issue 7 • Pages 326-373



INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published bi-monthly and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed, administrative rules and amendments filed under Chapter 150B must be published in the Register. The Register will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions. The *North Carolina Register* is available by yearly subscription at a cost of one hundred and five dollars (\$105.00) for 24 issues.

Requests for subscriptions to the *North Carolina Register* should be directed to the Office of Administrative Hearings, P. O. Drawer 27447, Raleigh, N. C. 27611-7447, Attn: *Subscriptions*.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

An agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing; a statement of how public comments may be submitted to the agency either at the hearing or otherwise; the text of the proposed rule or amendment; a reference to the Statutory Authority for the action and the proposed effective date.

The Director of the Office of Administrative Hearings has authority to publish a summary, rather than the full text, of any **amendment** which is considered to be too lengthy. In such case, the full text of the rule containing the proposed amendment will be available for public inspection at the Rules Division of the Office of Administrative Hearings and at the office of the promulgating agency.

Unless a specific statute provides otherwise, at least 30 days must elapse following publication of the proposal in the *North Carolina Register* before the agency may conduct the required public hearing and take action on the proposed adoption, amendment or repeal.

When final action is taken, the promulgating agency must file any adopted or amended rule for approval by the Administrative Rules Review Commission. Upon approval of ARRC, the adopted or amended rule must be filed with the Office of Administrative Hearings. If it differs substantially from the proposed form published as part of the public notice, upon request by the agency, the adopted version will again be published in the *North Carolina Register*.

A rule, or amended rule cannot become effective earlier than the first day of the second calendar month after the adoption is filed with the Office of Administrative Hearings for publication in the NCAC.

Proposed action on rules may be withdrawn by the promulgating agency at any time before final action is taken by the agency.

TEMPORARY RULES

Under certain conditions of an emergency nature, some agencies may issue temporary rules. A temporary rule becomes effective when adopted and remains in

effect for the period specified in the rule or 180 days whichever is less. An agency adopting a temporary rule must begin normal rule-making procedures on the permanent rule at the same time the temporary rule is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 38 occupational licensing boards. The NCAC comprises approximately 15,000 letter size single spaced pages of material of which approximately 35% is changed annually. Compilation and publication of the NCAC is mandated by G.S. 150B-63(b).

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards.

The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 1 page or less, plus fifteen cents (\$.15) per each additional page.
- (2) The full publication consists of 53 volumes totaling in excess of 15,000 pages. It is supplemented monthly with replacement pages. A one year subscription to the full publication including supplements can be purchased for seven hundred and fifty dollars (\$750.00). Individual volumes may also be purchased with supplement service. Renewal subscriptions for supplements to the initial publication available.

Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.

NOTE

The foregoing is a generalized statement of the procedures to be followed. For specific statutory language it is suggested that Articles 2 and 5 of Chapter 150B of the General Statutes be examined carefully.

CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue number and date. **1:1 NCR 101-201, April 1, 1986** refers to Volume 1, Issue 1, pages 101 through 201 of the *North Carolina Register* issued on April 1, 1986.

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NORTH CAROLINA REGISTER



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NORTH CAROLINA REGISTER

Publication Schedule

(April 1991 - December 1992)

Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing & Adoption by Agency	* Earliest Effective Date
*****	*****	*****	*****	*****
04/01/91	03/11/91	03/18/91	05/01/91	08/01/91
04/15/91	03/22/91	04/01/91	05/15/91	08/01/91
05/01/91	04/10/91	04/17/91	05/31/91	09/01/91
05/15/91	04/24/91	05/01/91	06/14/91	09/01/91
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09/03/91	08/12/91	08/19/91	10/03/91	01/01/92
09/16/91	08/23/91	08/30/91	10/16/91	01/01/92
10/01/91	09/10/91	09/17/91	10/31/91	02/01/92
10/15/91	09/24/91	10/01/91	11/14/91	02/01/92
11/01/91	10/11/91	10/18/91	12/01/91	03/01/92
11/15/91	10/24/91	10/31/91	12/15/91	03/01/92
12/02/91	11/07/91	11/14/91	01/01/92	04/01/92
12/16/91	11/21/91	12/02/91	01/15/92	04/01/92
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01/15/92	12/20/91	12/31/91	02/14/92	05/01/92
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03/16/92	02/24/92	03/02/92	04/15/92	07/01/92
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05/15/92	04/24/92	05/01/92	06/14/92	09/01/92
06/01/92	05/11/92	05/18/92	07/01/92	10/01/92
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07/15/92	06/24/92	07/01/92	08/14/92	11/01/92
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08/14/92	07/24/92	07/31/92	09/13/92	12/01/92
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09/15/92	08/25/92	09/01/92	10/15/92	01/01/93
10/01/92	09/10/92	09/17/92	10/31/92	02/01/93
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12/01/92	11/06/92	11/13/92	12/31/92	04/01/93
12/15/92	11/24/92	12/01/92	01/14/93	04/01/93

* The "Earliest Effective Date" is computed assuming that the public hearing and adoption occur in the calendar month immediately following the "Issue Date", that the agency files the rule with The Administrative Rules Review Commission by the 20th of the same calendar month and that ARRC approves the rule at the next calendar month meeting.

VOTING RIGHTS ACT FINAL DECISION LETTER

[G.S. 120-30.9H, effective July 16, 1986, requires that all letters and other documents issued by the Attorney General of the United States in which a final decision is made concerning a "change affecting voting" under Section 5 of the Voting Rights Act of 1965 be published in the North Carolina Register.]

U.S. Department of Justice
Civil Rights Division

JRD:SSC:TGL:gmh
DJ 166-012-3
91-1124

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

June 12, 1991

Jesse L. Warren, Esq.
City Attorney
P. O. Drawer W-2
Greensboro, North Carolina 27402

Dear Mr. Warren:

This refers to the annexation (Ordinance No. 91-33) and the designation of the annexed area to a district for the City of Greensboro in Guilford County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on April 15, 1991.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

John R. Dunne
Assistant Attorney General
Civil Rights Division

By:

Gerald W. Jones
Chief, Voting Section

TITLE 15A - DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-12 that the Commission for Health Services, Department of Environment, Health, and Natural Resources intends to amend rule(s) cited as 15A NCAC 13A .0001; 13B .0101, .0902 - .0903, .1204; 18A .2615; 19A .0102 - .0103, .0201 - .0202, .0401; 20C .0002; 21A .0107; 25 .0213; repeal rule(s) cited as 15A NCAC 19D .0101 - .0105, .0201 - .0204, .0301 - .0304, .0401 - .0407; 19F .0101, .0103 - .0105, .0201, .0203, .0301 - .0305, .0401 - .0402; 20D .0201 - .0224, .0226 - .0230; and adopt rule(s) cited as 15A NCAC 13B .1401 - .1409; 16A .0901 - .0912; 19A .0204 - .0205, .0213 - .0215; 20D .0231 - .0261.

The proposed effective date of this action is December 1, 1991.

The public hearing will be conducted at:

August 6, 1991

7:00 p.m.

Auditorium

New Hanover Co. Health Dept.
2029 South 17th Street
Wilmington, NC

August 9, 1991

1:30 p.m.

Ground Floor Hearing Room
Archdale Building
512 North Salisbury Street
Raleigh, NC

August 12, 1991

7:00 p.m.

Room 204

Buncombe Co. Courthouse
60 Court Plaza
Asheville, NC

August 14, 1991

7:00 p.m.

Auditorium

Forsyth-Stokes Mental Health Ctr.
725 Highland Avenue
Winston-Salem, NC

Comment Procedures: All persons interested in these matters are invited to attend the public hearing. Written comments may be presented at the public hearing or submitted to John P. Barkley, DEHNR, P.O. Box 27687, Raleigh, NC

27611-7687, (919) 733-7247. If you desire to speak at the public hearing, notify John P. Barkley at least three days prior to the public hearing. Oral presentation lengths may be limited depending on the number of people that wish to speak at the public hearing. At the discretion of the Chairman, the public may also be allowed to comment on the rules at the Commission Meeting.

A fiscal note has been prepared and can be obtained from the agency for 15A NCAC 16A .0901 - .0912.

IT IS VERY IMPORTANT THAT ALL INTERESTED AND POTENTIALLY AFFECTED PERSONS, GROUPS, BUSINESSES, ASSOCIATIONS, INSTITUTIONS, OR AGENCIES MAKE THEIR VIEWS AND OPINIONS KNOWN TO THE COMMISSION FOR HEALTH SERVICES THROUGH THE PUBLIC HEARING AND COMMENT PROCESS, WHETHER THEY SUPPORT OR OPPOSE ANY OR ALL PROVISIONS OF THE PROPOSED RULES. THE COMMISSION FOR HEALTH SERVICES MAY ADOPT MORE OR LESS STRINGENT STANDARDS OR REQUIREMENTS THAT MAY DIFFER FROM THOSE BEING NOTICED HEREIN, WITHOUT RENOTICE OR REHEARING, IF THE COMMISSION FOR HEALTH SERVICES DETERMINES THAT THE FINAL ADOPTED RULES ARE A LOGICAL OUTGROWTH OF THE NOTICE, PUBLIC HEARINGS AND THE HEARING COMMENTS RECEIVED.

CHAPTER 13 - SOLID WASTE MANAGEMENT

SUBCHAPTER 13A - HAZARDOUS WASTE MANAGEMENT

.0001 GENERAL

(b) In applying the federal requirements incorporated by reference throughout this Subchapter, the following ~~exceptions or~~ substitutions or exceptions shall apply:

- (1) "Department of Environment, Health, and Natural Resources" shall be substituted for "Environmental Protection Agency" except in 40 CFR 262.51 through 262.54, 262.56, 262.57 where references to the Environmental Protection Agency shall remain without substitution;
- (2) "Secretary of the Department of Environment, Health, and Natural Resources" shall be substituted for "Administrator," "Regional Administrator" and "Director" except for 40 CFR 262.55 through 262.57.

264.12(a), 268.5, 268.6, 268.42(b) and 268.44 where the references to the Administrator, Regional Administrator, and Director shall remain without substitution; and

- (3) An "annual report" shall be required for all hazardous waste generators, treaters, storers, and disposers rather than a "biennial report".

Statutory Authority G.S. 130A-294(c).

SUBCHAPTER 13B - SOLID WASTE MANAGEMENT

SECTION .0100 - GENERAL PROVISIONS

.0101 DEFINITIONS

The definitions in G.S. 130A-290 and the following definitions shall apply throughout this Subchapter:

- (66) "Residues from Agricultural Products and Processing" means solids, semi-solids or liquid residues from food and beverage processing and handling; silviculture; agriculture; and aquaculture operations that are non-toxic, non-hazardous, and contain no domestic wastewater.

- (67) "Municipal Solid Waste" means solid waste generated by residences, stores, offices, restaurants, warehouses, other non-manufacturing activities, and industrial waste which is not a residue from a treatment or processing activity.

- (68) "Treatment and Processing Waste" means waste that is a residual solid from a wastewater treatment or pretreatment facility.

- (69) "Industrial Process Waste" means any solid, semi-solid, or liquid waste generated by a manufacturing or processing plant which is a result of the manufacturing or processing process. This definition does not include packaging materials associated with such activities.

- (70) "Mulch" means a protective covering of various substances, especially organic, to which no plant food has been added and for which no plant food is claimed. Mulch is generally placed around plants to prevent erosion, compaction, evaporation of moisture, freezing of roots, and weed growth.

- (71) "Mesophilic Stage" means the stage of the composting process in which the rate of biological activity is sufficient to maintain an average pile temperature of at least 90 degrees F (32 degrees C). This stage follows the thermophilic stage and is the stage in

which continued decomposition and stabilization occurs.

- (72) "Thermophilic Stage" means the stage of the composting process in which the rate of biological activity is sufficient to maintain an average pile temperature of at least 131 degrees F (55 degrees C). Rapid destruction of pathogenic organisms occurs during this stage. This stage precedes the mesophilic stage.

- (73) "Soil Scientist" means an individual who is a Certified Professional Soil Scientist or Soil Specialist by American Registry of Certified Professional in Agronomy, Crops, and Soils (ARCPACS) or an individual that demonstrates equivalent experience or education.

Statutory Authority G.S. 130A-294.

SECTION .0900 - YARD WASTE FACILITIES

.0902 APPLICABILITY FOR YARD WASTE FACILITY

As of January 1, 1993, disposal of yard trash in a sanitary landfill shall be prohibited; however, yard trash which has been separated may be accepted at a sanitary landfill where the facility provides and maintains a separate yard waste composting area.

- (2) Activities not requiring a permit. A permit is not required for the following operations:

- (c) Facilities processing and storing less than 6,000 cubic yards of material quarterly, meeting the following conditions:

- (ii) Agreement to operate in accordance with operational and siting requirements as set forth in Rule .0903 and Rule .0904 of this Section, except for .0904(7).

Statutory Authority G.S. 130A-309.10; 130A-309.11.

.0903 APPLICATION REQUIREMENTS FOR YARD WASTE FACILITIES

- (b) The following information shall be required for reviewing an application for a yard waste facility:

- (4) An operational plan which contains the following:

- (C) Person responsible for operation, contact phone number, and address of facility;

Statutory Authority G.S. 130A-309.11.

SECTION .1200 - MEDICAL WASTE MANAGEMENT

.1204 REQUIREMENTS FOR GENERATORS

OF REGULATED MEDICAL WASTE

(a) A person who ships Regulated medical waste from the generating facility for off-site treatment shall meet the following requirements:

- (1) Regulated medical waste shall be packaged in a minimum of one plastic bag placed in a rigid fiberboard box or drum in a manner that prevents leakage of the contents. The plastic bag shall be impervious to moisture and have a strength sufficient to preclude ripping, tearing or bursting the waste-filled bag under normal conditions of usage and handling. Each bag shall be constructed of material of sufficient single thickness strength to pass the 165-gram dropped dart impact resistance test as prescribed by ~~Standard D 1709-75~~ Standard D 1709-91 of the American Society for Testing and Materials, which is adopted by reference in accordance with G.S. 150B-14(c), and certified by the bag manufacturer.

Statutory Authority G.S. 130A-309.26.

SECTION .1400 - MUNICIPAL SOLID WASTE (MSW) COMPOST FACILITIES

.1401 PROCEDURE FOR PERMIT

(a) All persons whose purpose is or includes the production of compost from municipal solid waste or municipal solid waste co-composted with other wastes shall not construct, operate, expand or modify a facility until a currently valid permit for a municipal solid waste compost facility is issued by the Division. Siting, design, application, operational, distribution, and reporting requirements shall be in accordance with Rules .1403, .1404, .1405, .1406, .1407, and .1408 of this Section.

(b) In accordance with 15A NCAC 13B .0202(a)(3), the seal of a professional engineer is required when submitting plans for a Municipal Solid Waste Compost Facility Permit. A minimum of four sets of plans shall be submitted within each application.

Statutory Authority G.S. 130A-309.11.

.1402 GENERAL PROVISIONS FOR MSW COMPOST FACILITIES

(a) Applicability. The provisions of this Rule apply to compost facilities which compost municipal solid waste or co-compost municipal solid waste with any of the following: treatment and processing wastes, yard waste, industrial process wastes, agricultural waste, residues from agricultural products and processing, or sludge functioning as a nitrogen source. Facilities shall

comply with all other applicable Federal or state regulations regarding sludge management.

(b) The provisions of this Rule do not apply to compost facilities operated in accordance with the requirements for Yard Waste Facilities in Section .0900 of this Subchapter.

(c) Municipal Solid Waste Compost Facilities which have been permitted prior to the effective date of this Rule shall meet the requirements of this Rule by December 1, 1992.

(d) Municipal solid waste compost products produced outside the State of North Carolina and imported into the state shall comply with the requirements specified in Rule .1407 of this Section.

(e) Municipal solid waste compost shall count towards goals for the reduction of municipal solid waste prior to final disposal or incineration at a solid waste disposal facility as long as the final product is used or sold based upon the classification and distribution scheme outlined in Rule .1407 of this Section. Compost which is disposed of shall not count toward reduction or recycling goals.

Statutory Authority G.S. 130A-309.11.

.1403 GENERAL PROHIBITIONS FOR MSW COMPOST FACILITIES

(a) Hazardous waste, asbestos containing waste or household hazardous waste shall not be processed into compost.

(b) Any compost made from municipal solid waste which cannot be used pursuant to the requirements of this Rule shall be reprocessed or disposed of pursuant to the requirements of 15A NCAC 13B.

Statutory Authority G.S. 130A-309.11.

.1404 SITING/DESIGN REQUIREMENTS FOR MSW COMPOST FACILITIES

Facilities shall comply with the following siting and design requirements:

- (1) A site shall meet the following siting requirements:
- (a) A site located in a floodplain shall not restrict the flow of the 100-year flood, reduce the temporary storage capacity of the floodplain or result in washout of solid waste so as to pose a hazard to human life, wildlife, land or water resources;
- (b) A 100-foot minimum buffer will be required between all property lines and compost areas;
- (c) A 500-foot minimum buffer will be required between compost areas and residences or dwellings;

- (d) A 200-foot minimum buffer will be required between perennial streams/rivers and compost areas;
- (e) A site shall not be located over a closed out disposal area;
- (f) A site shall meet the following surface water requirements:
 - (i) A site shall not cause a discharge of materials or fill materials into waters or wetlands of the state that is in violation of Section 404 of the Clean Water Act;
 - (ii) A site shall not cause a discharge of pollutants into waters of the state that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES), under Section 402 of the Clean Water Act; and
 - (iii) A site shall not cause non-point source pollution of waters of the state that violates assigned water quality standards;
- (g) A site shall meet the following groundwater requirements:
 - (i) A site shall not contravene groundwater standards as established under 15A NCAC 2L; and
 - (ii) The bottom elevation of the composting and storage areas shall be a minimum of three feet above the seasonal high water table.
- (2) For Subparagraphs (1)(a) through (1)(d) of this Rule, alternative buffers for an indoor or enclosed vessel facility may be approved on a case-by-case basis.
- (3) A site shall meet the following design requirements:
 - (a) A site shall not allow uncontrolled public access;
 - (b) A site shall meet the requirements of the Sedimentation Pollution Control Law (15A NCAC 4);
 - (c) A site shall meet the requirements of the Air Pollution Control Requirements (15A NCAC 2D) to ensure that all particulates remain on site; and
 - (d) A site shall be operated as to prohibit nuisance odors at the property boundary.
- (a) An aerial photograph or scaled drawing, where one inch is less than or equal to 400 feet, showing the area within one-fourth of the mile of the proposed site's boundaries with the following specifically identified:
 - (i) Entire property owned or leased by the person proposing the site;
 - (ii) Land use and zoning;
 - (iii) Location of all homes, industrial buildings, public or private utilities and roads;
 - (iv) Location of wells, watercourses, dry runs, and other applicable information regarding the general topography;
 - (v) Floodplains and wetlands; and
 - (vi) Bench marks.
- (b) A letter from the unit of government having zoning jurisdiction over the site which states that the proposal meets all of the requirements of the local zoning ordinance.
- (c) A discussion of compliance with all local, state, and Federal ordinances or permits required to fully comply with these Rules.
- (d) A discussion of compliance with siting and design standards in Rule .1404 Subparagraphs (1) and (2) of this Section.
- (e) A detailed report indicating the following:
 - (i) Population and geographic area to be served (both present and projected);
 - (ii) Type, source and quantity of the solid waste to be composted, including the source and expected quantity of any bulking agent or amendment (if applicable), any expected recycle of bulking agent or compost, and any seasonal variations in the solid waste type or quantity;
 - (iii) For systems which utilize an active composting and storage area less than two acres in size (excluding equipment storage areas), a soil evaluation of the site conducted by a soil scientist (or equivalent) down to a depth of seven feet to adequately evaluate the soils and depth of the seasonal high water table;
 - (iv) For systems which utilize an active composting and storage area equal to or greater than two acres in size (excluding equipment storage areas), a geological and hydrological study of the site which provides:
 - (A) Soil borings (numbers and depths shall be confirmed by the Division) and lab testing of selected soils that provide:
 - (I) Particle size analysis,
 - (II) Soil classification - USCS,

Statutory Authority G. S. 130A-309.11.

.1405 APPLICATION REQUIREMENTS FOR MSW COMPOST FACILITIES

This Rule contains the information required for a municipal solid waste compost facility.

- (1) The following information is required for reviewing an application for the initial permit to construct a proposed municipal solid waste compost facility:

- (A) Soil borings (numbers and depths shall be confirmed by the Division) and lab testing of selected soils that provide:
 - (I) Particle size analysis,
 - (II) Soil classification - USCS,

- (B) Undisturbed representative geologic samples of the unconfined or confined or semiconfined hydrogeologic units within a depth of 20 feet that provides the following information:
 - (I) Saturated hydraulic conductivity (or by in-situ),
 - (II) Volume percent water,
 - (III) Porosity,
- (C) Stratigraphic cross-sections identifying hydrogeological units including lithology,
- (D) A potentiometric map of the surficial aquifer based on stabilized water table elevations,
- (E) Boring logs, and
- (F) A report summarizing the geologic and hydrological evaluation;
- (v) The requirements of Subparagraphs (I)(e)(iv) of this Rule may be waived, if the composting site is to be located at a permitted sanitary landfill site, and the Division determines that sufficient hydrogeologic data has previously been submitted as part of the landfill permit.
- (f) Site plans at a scale where one inch is less than or equal to 200 feet (maximum five foot contours) to the inch that delineates the following:
 - (i) Existing and proposed contours;
 - (ii) Location and elevations of dikes, trenches, and other control devices and structures;
 - (iii) Designated buffer zones and property lines;
 - (iv) Diversion and controlled removal of surface water;
 - (v) Proposed utilities and structures;
 - (vi) Access roads, details on traffic patterns;
 - (vii) Areas for unloading, processing, curing, and storage of municipal solid waste compost;
 - (viii) Areas for unloading, processing, and storing recyclables, household hazardous waste, and other materials, where applicable;
 - (ix) Proposed surface and groundwater monitoring locations; and
 - (x) Direction of prevailing winds.
- (g) A description of the operation of the facility, which must include at a minimum:
 - (i) Estimated daily traffic flow to and from the facility;
 - (ii) Procedure for unloading trucks;
 - (iii) Arrangements for the operation of the facility;
 - (iv) Identification of personnel and their responsibilities;
 - (v) A schedule for operation, including the days and hours that the facility will be open, preparations before opening, and procedures followed after closing for the day;
 - (vi) Plan for recycling a majority of the marketable recyclables in the waste stream;
 - (vii) Plan for removing household hazardous waste in the waste stream;
 - (viii) Special precautions or procedures for operating during wind, heavy rain, snow, freezing or other adverse conditions;
 - (ix) A description of actions to be taken to minimize noise, vectors, air borne particulates, and odors;
 - (x) A description of the ultimate use for the finished compost, method for removal from the site, and a plan for use or disposal of finished compost that cannot be used in the expected manner due to poor quality or change in market conditions; and
 - (xi) A description of the label or other information source that outlines the type of waste contributing to the compost, a list of projected restrictions on compost use, and projected recommended safe uses and application rates for the compost.
- (h) A report on the design of the facility, including:
 - (i) A process flow diagram of the entire facility, including all major equipment, the location of all temperature and all other monitoring points, and flow streams. The flow streams shall indicate the quantity of material on a wet weight, dry weight, and volumetric basis;
 - (ii) A description and sizing of the storage facilities for amendment, bulking agent, solid waste, recyclables, household hazardous waste and finished compost;
 - (iii) The technology for measuring, shredding, mixing, and proportioning input materials;
 - (iv) The type, size, and associated detention time for the handling, processing, and storage equipment;
 - (v) The separation, processing, storage, and ultimate disposal of non-compostable materials, if applicable;
 - (vi) A description of the location of all temperature and any other type of monitoring points, and the frequency of monitoring;
 - (vii) A description of how the temperature control and monitoring equipment will demonstrate that the facility qualifies as a

process to further reduce pathogens as outlined in Rule .1406 Subparagraph (9)(b) of this Section;

- (viii) The aeration capacity of the system (for static pile and enclosed vessel systems);
 - (ix) The mass balance through the system;
 - (x) The method of supplying and regulating air flow;
 - (xi) A description of the air emission and control technologies;
 - (xii) A description of the method to control surface water run-off; and the method to control, collect, treat, and dispose of leachate generated;
 - (xiii) A description of any seed material, including its quantity, quality, and frequency of use;
 - (xiv) If treatment and processing wastes, residues from agricultural products or processing, industrial process wastes, or sludges are to be composted: quantity, chemical and physical analysis, and recommendations from the Division of Environmental Management shall be submitted with the application; and
 - (xv) A description of any recycling or other material handling processes used at the facility.
- (i) Detailed engineering plans and specifications for the entire facility, including manufacturer's performance data for all equipment selected.
 - (2) The following information is required for reviewing an application to operate a municipal solid waste composting facility:
 - (a) Contingency plans detailing corrective or remedial action to be taken in the event of equipment breakdown; air pollution; non-conforming waste delivered to the facility; spills, and undesirable conditions such as fires, particulates, noise, vectors, odors, and unusual traffic conditions;
 - (b) An operation and maintenance manual. The manual must contain general design information, a discussion of compliance with operational requirements as outlined in Rule .1406 of this Section, detailed operational information and instruction, equipment maintenance, list of personnel, required personnel training, and safety instructions;
 - (c) A quality assurance plan for the final product which lists the procedures used in monitoring, sampling and analyzing the compost product, and record keeping requirements;

- (d) A fact sheet and process flow diagram that summarizes actual equipment sizing, aeration capacity, detention times, storage capacity, and flow rates (wet weight, dry weight, and volumetric) for the system and equipment chosen;
- (e) As-built drawings; and
- (f) A copy of all applicable local, state, and Federal permits and approvals necessary for the proper operation of the facility.

Statutory Authority G.S. 130A-309.11.

.1406 OPERATIONAL REQUIREMENTS FOR MSW COMPOST FACILITIES

Any person who maintains or operates a municipal solid waste compost facility shall maintain and operate the site to conform with the following practices:

- (1) Plan and Permit Requirements:
 - (a) Construction plans shall be approved and followed.
 - (b) A copy of the permit, plans, and operational reports shall be maintained on site at all times.
- (2) Erosion Control Requirements:
 - (a) Adequate erosion control measures shall be practiced to prevent silt from leaving the site.
 - (b) Adequate erosion control measures shall be practiced to prevent excessive on-site erosion.
 - (3) Surface water shall be diverted from the operational, compost curing, and storage areas.
 - (4) Leachate shall be contained on site or properly treated prior to disposal.
- (5) Access and Security Requirements:
 - (a) The site shall be secured by means of gates, chains, berms, fences, or other security measures approved by the Division, to prevent unauthorized entry.
 - (b) An operator shall be on duty at the site at all times while the facility is open for public use to ensure compliance with operational requirements.
 - (c) The access road to the site shall be of all-weather construction and maintained in good condition.
- (6) Waste Acceptance:
 - (a) A site shall only accept those solid wastes which it is permitted to receive.
 - (b) No hazardous waste, asbestos containing waste, or medical waste shall be accepted at the facility.
- (7) Safety Requirements:
 - (a) Open burning of solid waste is prohibited.

- (b) Equipment shall be provided to control accidental fires or arrangements made with the local fire protection agency to immediately provide fire-fighting services when needed.
- (c) Personnel training shall be provided to insure that all employees are trained in site specific safety, remedial, and corrective action procedures.
- (8) Sign Requirements:
 - (a) Signs providing information on dumping procedures, the hours during which the site is open for public use, the permit number and other pertinent information shall be posted at the site entrance.
 - (b) Traffic signs markers shall be provided as necessary to promote an orderly traffic pattern to and from discharge area and to maintain efficient operating conditions.
 - (c) Signs shall be posted stating that no hazardous waste, liquid waste, asbestos containing waste, or medical waste can be received at the site.
- (9) Monitoring Requirements:
 - (a) Specified monitoring and reporting requirements shall be met.
 - (b) The composting process shall qualify as a process to further reduce pathogens. The following are acceptable methods:
 - (i) The windrow method for reducing pathogens consists of an unconfined composting process involving periodic aeration and mixing. Aerobic conditions must be maintained during the compost process. A temperature of 131 degrees F (55 degrees Celsius) must be maintained in the windrow for at least three weeks. The windrow must be turned at least twice during every six to ten day period.
 - (ii) The static aerated pile method for reducing pathogens consists of an unconfined composting process involving mechanical aeration of insulated compost piles. Aerobic conditions must be maintained during the compost process. The temperature of the compost pile must be maintained at 131 degrees F (55 degrees Celsius) for at least seven days.
 - (iii) The enclosed vessel method for reducing pathogens consists of a confined compost process involving mechanical mixing of compost under controlled environmental conditions. The retention time in the vessel must be at least 24 hours with the temperature maintained at 131 degrees F (55 degrees Celsius). A stabilization period of at least seven days must follow the minimum 24 hour decomposition period. Temperature in the compost pile must be maintained at a minimal temperature of 131 degrees F (55 degrees Celsius) for three days during the stabilization period.
 - (c) The temperature of each daily batch of compost produced shall be monitored sufficiently to ensure that the pathogen reduction criteria is met.
- (10) Miscellaneous Requirements:
 - (a) The waste storage area and the active composting, curing, and compost storage areas shall be located on surfaces capable of minimizing releases to the surface immediately below these areas, to the surrounding land surface, and groundwater. If natural soils are used, the liner must be at least 18 inches thick and the liner coefficient of permeability must not be greater than 1×10^{-7} centimeters per second.
 - (b) The finished compost shall meet the classification and distribution requirements outlined in Rule .1407 of this Section.
 - (c) The quality of the final product will determine the allowable uses as outlined in Rule .1407 of this Section.
 - (d) The final product shall be approved by the Solid Waste Section (based upon the classification and distribution scheme and testing results).
 - (e) Non-compostable solid waste and unacceptable compost shall be disposed of in a manner approved by the Division.
 - (f) The amount of compost stored at the facility shall not exceed the designed storage capacity.

Statutory Authority G.S. 130A-309.11.

.1407 CLASSIFICATION/DISTRIBUTION OF MSW COMPOST PRODUCTS

Municipal solid waste compost shall be classified based on its physical and chemical properties, and degree of stabilization.

PROPOSED RULES

- (1) Maximum allowable physical characteristics of marketable grades shall be as designated in Table 1:

TABLE 1

GRADE	PARTICLE SIZE (inches)	FOREIGN MATTER % of dry Wt. Inerts
Fine	.25	1.5
Medium	.50	3.0
Coarse	1.00	6.0

- (2) Maximum allowable chemical characteristics codes of marketable grades shall be as designated in Table 2:

TABLE 2

PARAMETER (mg/kg dry wt.)	CODE 1	CODE 2	CODE 3
Mercury	10	10	10
Cadmium	10	15	25
Nickel	100	200	500
Copper	600	600	1000
Lead	250	500	1000
Chromium	1000	1000	1000
Zinc	1000	2000	2500
Total PCB's	1	1	10

- (3) Degree of stabilization of marketable grades shall be as designated in Table 3:

(a) Table 3:

TABLE 3

DEGREE	STAGE	MEETS	ROM	RE-HEAT
Fresh	Passed through	PFRP		No
Semi-mature	first thermophilic	PFRP	40 %	Requirements
	In mesophilic			No
				Requirements
Mature	Through both	PFRP	50 %	Yes, see Subparagraph (3)(c) of this Rule

(b) "ROM" means reduction in organic matter.

PROPOSED RULES

- (c) Mature compost cannot reheat to greater than 20 degrees Celsius above ambient temperature.
- (4) Final grades for distribution and marketing of compost shall be based upon Table 1 thru Table 3 and shall be as follows:
 - (a) Retail Grade shall have the following qualities:
 - (i) Fine grade compost as denoted in Subparagraph (1) of this Rule;
 - (ii) Chemical characteristics Code 1 as denoted in Subparagraph (2) of this Rule;
 - (iii) Mature degree of stabilization as denoted in Subparagraph (3) of this Rule; and
 - (iv) Soluble salts less than 10 millimhos/centimeter (dry weight basis).
 - (b) Commercial Grade shall have the following qualities:
 - (i) Fine or medium grade compost as denoted in Subparagraph (1) of this Rule;
 - (ii) Chemical characteristics Code 1 or 2 as denoted in Subparagraph (2) of this Rule;
 - (iii) Mature or semi-mature degree of stabilization as denoted in Subparagraph (3) of this Rule; and
 - (iv) Soluble salts less than 10 millimhos centimeter (dry weight basis).
 - (c) Land Application Grade shall have the following qualities:
 - (i) Fine, medium or coarse grade compost as denoted in Subparagraph (1) of this Rule;
 - (ii) Chemical characteristics Codes 1, 2, or 3 as denoted in Subparagraph (2) of this Rule;
 - (iii) Mature, semi-mature, or fresh degree of stabilization as denoted in Subparagraph (3) of this Rule; and
 - (iv) Soluble salts less than 10 millimhos centimeter (dry weight basis).
- (5) For applications where repeated use of the compost can be expected, such as in agricultural applications, the maximum accumulation of heavy metal applied to the soils shall be as designated in Table 4:

TABLE 4

Range of Cation Exchange Capacity of Soil (CEC)				
(CFC)	1 - 5	6 - 10	11 - 15	> 15
Maximum Cumulative Loading Rate (lbs acre)				
HEAVY METAL				
Lead	65	125	250	500
Zinc	50	75	125	250
Copper	25	45	65	125
Nickel	25	45	65	125
Cadmium	2	3	4	5

The Cation Exchange Capacity may be determined by procedures accepted by the North Carolina Department of Agriculture or EPA test method 9081.

- (6) Distribution of the defined grades shall be as follows:
 - (a) Grades:
 - (i) Retail Grade Compost shall have unlimited, unrestricted distribution (bagged or bulk).
 - (ii) Commercial Grade Compost shall be restricted to distribution to commercial, agricultural, or governmental operations; however, such use shall not be allowed if contact with the general public is expected.
 - (iii) Land Application Grade shall be restricted to distribution for land and mine reclamation, silviculture, and agriculture (on non-food chain crops) projects.
 - (b) Municipal solid waste compost products may not be distributed or marketed until the permittee has provided adequate test data to the Division as outlined in Rule .1408 of this Section. Within 30 days of receipt of the test data, the Division shall approve or deny the distribution and marketing of the product based upon the compost classification and distribution scheme.

PROPOSED RULES

- (c) If the owner intends to market the product as a fertilizer, the applicant must register with the North Carolina Department of Agriculture, Fertilizer Section. The product must meet the NCDA's minimal nutrient requirements.
- (d) If the owner intends to market the product as a mulch, the owner must provide instructions to the user on any restrictions on use and recommended safe uses and application rates. The following information must be provided on a label:
 - (i) Percent moisture content;
 - (ii) Classification grade as outlined in this Rule;
 - (iii) Recommended uses;
 - (iv) Application rates;
 - (v) Calcium Carbonate equivalent (for products which have been lime stabilized); and
 - (vi) Restrictions on usage.
- (e) If the owner intends to use the final product for land application projects, he shall comply with all local, state, and Federal rules and regulations concerning land application.

Statutory Authority G.S. 130A-309.11.

.1408 METHODS FOR TESTING AND REPORTING REQUIREMENTS

The intent of this Rule is to define the methods and requirements for measuring and reporting the chemical and physical characteristics of the final compost product.

- (1) The compost product shall be sampled and analyzed as follows:
 - (a) A composite sample of the compost produced at each compost facility shall be analyzed at intervals of every 20,000 tons of compost produced or every three months, whichever comes first, for parameters as designated in Table 5:

TABLE 5

PARAMETER	UNIT	METHOD
Moisture	%	EPA 160.3
Reduction in		
Organic Matter	%	EPA 160.4
Organic Matter	%	EPA 160.4
Foreign Matter	%	see Subparagraph (d) of this Rule
Cadmium	mg/kg dry wt.	EPA 3050/7130
Copper	mg/kg dry wt.	EPA 3050/7210
Lead	mg/kg dry wt.	EPA 3050/7420
Nickel	mg/kg dry wt.	EPA 3050/7520
Zinc	mg/kg dry wt.	EPA 3050/7950
Chromium	mg/kg dry wt.	EPA 3050/7140
Mercury	mg/kg dry wt.	EPA 3050/7471
Fecal Coliform	#organisms/100ml	Standard 9222
Soluble Salts	millimhos/cm	Solubridge 1:2 ratio
PCB's	mg/kg dry wt.	EPA 8080
pH	standard	EPA 9045

The parameters listed in Table 5 of this Rule may also be determined by methods accepted by the North Carolina Department of Agriculture.

- (b) Sample collection, preservation, and analysis shall assure valid and representative results pursuant to a Division-approved quality assurance plan. At least three individual samples (of equal volume) shall be taken from each batch produced in separate areas along the side of the batch. Each sampling point shall be at a depth of two feet into the pile from the outside surface of the pile. Samples shall be composited and accumulated over a three month period or at intervals of every 20,000 tons or product produced, whichever comes first.

- (c) The Division may decrease or increase the parameters to be analyzed or the frequency of analysis based on monitoring date, changes in the waste stream or processing, or the potential presence of toxic substances.
- (d) Foreign matter content shall be determined by passing a dried, weighed sample of the compost product through a one-eighth inch screen. EPA Method 160.3 shall be used to dry the sample. The material remaining on the screen shall be visually inspected, and the foreign matter that can be clearly identified shall be separated and weighed. The weight of the separated foreign matter divided by the weight of the total sample shall be determined and multiplied by 100. This shall be the percent dry weight of the foreign matter content.
- (e) A composite, heterogeneous sample of the incoming waste stream (feedstock), which has been shredded or otherwise reduced in particle size, shall be used for determination of the initial organic matter (OM) used in the calculation for percent reduction in organic matter (% ROM). The organic matter content of this composite sample is determined by measuring the volatile solids content using EPA Method 160.4.
- (f) The reduction in organic matter is determined by comparing the organic matter content of the feedstock into the composting process and the organic matter content of the compost product (using EPA Method 160.4). The amount of reduction is determined as a percent of the original amount contained in the feedstock using the following calculation:

$$\% \text{ ROM} = 100 [1 - (\text{OMK}(100 - \text{OM}) / \text{OM}(100 - \text{OMK}))]$$

where, % ROM = percent reduction in organic matter, OM = percent organic matter of the feedstock, and OMK = percent organic matter of compost product.

- (2) Record Keeping: Facility owners or operators shall record and maintain, for a minimum of three years, the following information regarding their activities for each month of operation of the facility. Records shall be available for inspection by Division personnel during normal business hours and shall be sent to the Division upon request.
 - (a) Daily operational records must be maintained, which include, at a minimum, temperature data (length of the composting period) and quantity of material processed;
 - (b) Analytical results on compost testing;
 - (c) The quantity, type and source of waste received;
 - (d) The quantity and type of waste processed into compost;
 - (e) The quantity and type of compost produced by product classification; and
 - (f) The quantity and type of compost removed for use or disposal, by product classification, and the market or permitted disposal facility.
- (3) Annual Reporting: An annual report shall be submitted to the Division which contains:
 - (a) The facility name, address, and permit number;
 - (b) The year covered;
 - (c) The total quantity in tons, with sludge values expressed in dry weight, and type of waste received at the facility during the year covered by the report, including tons of waste received from local governments of origin;
 - (d) The total quantity in tons, with sludge values expressed in dry weight, and type of waste processed into compost during the year covered by the report;
 - (e) The total quantity in tons and type of compost produced at the facility, by product classification, during the year covered by the report;
 - (f) The total quantity in tons and type of compost removed for use or disposal from the facility, by product classification, along with a general description of the market if for use during the year covered by the report;
 - (g) The total quantity in tons, and the type of waste removed from the facility and disposed of;
 - (h) Condensed monthly temperature monitoring to support Rule .1406 Subparagraph (9)(c) of this Section; and
 - (i) Condensed yearly totals of solid waste received and composted shall be reported back to the local government of origin for respective annual recycling reporting.

Statutory Authority G.S. 130A-309.11.

**.1409 APPROVAL OF ALTERNATIVE
PROCEDURES AND REQUIREMENTS**

- (a) The owner or operator of a composting facility, subject to the provisions of this Rule, may

request in writing the approval of an alternative procedure for the facility or the compost that is produced. The following information shall be submitted to the Solid Waste Section:

- (1) The specific facility for which the exception is requested;
 - (2) The specific provisions of this Section for which the exception is requested;
 - (3) The basis for the exception;
 - (4) The alternate procedure or requirement for which the approval is sought and a demonstration that the alternate procedure or requirement provides equivalent protection of the public health and the environment; and
 - (5) A demonstration of the effectiveness of the proposed alternate procedure.
- (b) An individual may request in writing the approval of a municipal solid waste composting pilot or demonstration project for the purpose of evaluating the feasibility of such a project. The following information shall be submitted to the Solid Waste Section:
- (1) The owner, operator, location, and contact numbers for the project;
 - (2) The specific waste stream for which the project is to evaluate;
 - (3) The specific time frame for the project;
 - (4) The specific amount of waste to be composted;
 - (5) The basis for running the pilot or demonstration project;
 - (6) A description of all testing procedures to be used;
 - (7) A description of the process to be used and the expected final usage or disposal of the final product; and
 - (8) An outline of the final report to be submitted to the Solid Waste Section upon completion of the project.
- (c) For Paragraph (a) of this Rule, the Division will review alternative procedures only to the extent that adequate staffing is available.

Statutory Authority G.S. 130A-309.11.

CHAPTER 16 - ADULT HEALTH

SUBCHAPTER 16A - CHRONIC DISEASE

SECTION .0900 - RYAN WHITE HIV CARE PROGRAM

.0901 GENERAL

The Ryan White HIV Care Program (RWCP) is administered by the Health Care Section, Division of Adult Health, Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, NC 27611-7687.

Statutory Authority G.S. 130A-223.

.0902 DEFINITIONS

The following definitions shall apply throughout this Section:

- (1) "Care Consortium" is an association of one or more public, and one or more nonprofit private health care and support services providers or community based organizations operating within areas determined by the RWCP to be most affected by HIV disease.
- (2) "Essential Health Services" means services such as case management services; medical, nursing, and dental care; diagnostics; monitoring; medical follow-up services; mental health; developmental and rehabilitation services; home health; and hospice care.
- (3) "Essential Support Services" means services such as transportation services; attendant care; homemaker services; day or respite care; benefits advocacy; advocacy services provided through public and nonprofit private entities; nutrition services; housing referral services; child welfare and family services (including foster care and adoption services); and provision of information and counseling on living with HIV disease.
- (4) "Lead Agency" means the agency, organization, institution or other entity which will assume administrative and fiscal responsibility for RWCP Care Consortium Funds.
- (5) "RWCP Reimbursement Rate" is the:
 - (a) maximum Medicaid rate, if one exists, for essential health services and essential support services other than those set out in Paragraph (5)(b) and (c) of this Rule;
 - (b) interim Medicare rate for medical social services; or
 - (c) schedule of payments that shall be developed by the Division of Adult Health for essential health services and essential support services other than those set out in Paragraph (5)(a) and (b) of this Rule.
- (6) "Third Party Payor" is any person or entity that is or may be indirectly liable for the cost of services furnished to an eligible person. Third party payors include, without limitation, Medicaid, Medicare, and private insurance.

Statutory Authority G.S. 130A-223.

.0903 ELIGIBLE PROVIDERS

- (a) The RWCP may contract with a care consortium or a lead agency designated by a care consortium to provide essential health services

and essential support services for individuals with HIV disease.

(b) The RWCP may contract with public and private organizations, institutions, agencies, and individuals in order to carry out the RWCP.

(c) Contracts may be renewed on an annual basis upon determination by the RWCP of a continuing need for essential health and essential support services in the care consortium service area; the performance of the care consortium, the need for services in other areas of the state, and the availability of funds.

Statutory Authority G.S. 130A-223.

.0904 APPLICATIONS FOR RWCP CARE CONSORTIUM FUNDS

A care consortium interested in contracting for essential health services and essential support services must submit an application to the RWCP. The application shall include documentation that the consortium:

- (1) consists of one or more public and one or more nonprofit private health care and support service providers or community-based organizations which:
 - (a) operate within counties in North Carolina affected by HIV;
 - (b) represent populations and subpopulations reflecting the local incidence of HIV; and
 - (c) have a record of service to populations and subpopulations with HIV;
- (2) has consulted with the following entities in establishing a plan for the provision of essential health and essential support services:
 - (a) public health agencies that provide or support ambulatory and outpatient HIV-related health care services within the geographic areas to be served;
 - (b) other entity or entities that directly provide ambulatory and outpatient HIV-related health care services within the geographic areas to be served; and
 - (c) community-based organizations that exist solely for the purpose of providing HIV-related support services to individuals with HIV disease;
- (3) has conducted a needs assessment of the geographic area to be served and has developed a plan to institute a comprehensive continuum of services to meet the identified needs;
- (4) has included persons with HIV disease in the needs assessment and planning stages of the consortium's plan;
- (5) has the capacity to coordinate, integrate and expand existing services;

(6) will develop a mechanism to ensure continuity of services through effective case management;

(7) can provide services which are cost effective alternatives to hospitalization;

(8) will spend at least 15 percent of their funding to provide health and/or support services to infants, children, women and families with HIV disease;

(9) has developed a plan for outreach to rural areas, low income individuals and families with HIV disease, as well as to special subpopulations at high risk for HIV infection including but not limited to, injecting drug users and their partners, gay and bisexual men, homeless people, and children and adolescents at risk for HIV infection;

(10) will comply with the North Carolina confidentiality laws;

(11) has created a mechanism to evaluate on a periodic basis the success of the consortium in responding to identified needs and the cost effectiveness of the mechanism employed by the consortium to deliver comprehensive care.

Statutory Authority G.S. 130A-223.

.0905 FINANCIAL ELIGIBILITY

All persons with HIV disease are financially eligible to receive RWCP essential health services and essential support services.

Statutory Authority G.S. 130A-223.

.0906 MEDICAL ELIGIBILITY

A person who is determined by a health care professional to have HIV disease and who is determined to need essential health services or essential support services is eligible for RWCP services.

Statutory Authority G.S. 130A-223.

.0907 BILLING THE RYAN WHITE HIV CARE PROGRAM

(a) If an eligible person's individual/family annual gross income is 100 percent or below the official Federal Poverty Guidelines, the care consortium may bill the RWCP the RWCP Reimbursement Rate. The care consortium must assure that an eligible person in this income category is not billed.

(b) If an eligible person's individual family annual gross income is greater than 100 percent of the Federal Poverty Guidelines, the care consortium may bill the RWCP as follows:

- (1) 85 percent of the RWCP Reimbursement Rate if the eligible person's gross annual income is between or includes 101 percent and 130 percent of Federal Poverty Guidelines;
- (2) 70 percent of the RWCP Reimbursement Rate if the eligible person's gross annual income is between or includes 131 percent and 160 percent of Federal Poverty Guidelines;
- (3) 55 percent of the RWCP Reimbursement Rate if the eligible person's gross annual income is between or includes 161 percent and 190 percent of Federal Poverty Guidelines;
- (4) 40 percent of the RWCP Reimbursement Rate if the eligible person's gross annual income is between or includes 191 percent and 220 percent of Federal Poverty Guidelines; or
- (5) 25 percent of the RWCP Reimbursement Rate if the eligible person's gross annual income is equal to or greater than 221 percent of Federal Poverty Guidelines.

(c) An eligible person may be billed for essential health and support services subject to the limitations as set forth in Rule .0908 of this Section.

Statutory Authority G.S. 130A-223.

.0908 LIMITATIONS ON FEE CHARGES

(a) Individual and aggregate fee charges to eligible persons receiving essential health and essential support services or any other Ryan White C.A.R.E. Act services must conform to the following limitations:

- (1) If individual/family annual gross income is equal to or below 100 percent of the official Federal Poverty Guidelines, there shall be no charge.
- (2) If individual/family annual gross income is equal to 101 to 200 percent of the official Federal Poverty Guidelines, then the total allowable annual charges shall be five percent or less of the gross income level.
- (3) If individual/family annual gross income is 201 to 300 percent of the official Federal Poverty Guidelines, then the total allowable annual charges shall be seven percent or less of the gross income level.
- (4) If individual/family annual gross income is more than 300 percent of the official Federal Poverty Guidelines, then the total allowable annual charges shall be 10 percent or less of the gross income level.

(b) Once the total allowable annual charges to an individual/family under the entire Ryan White

C.A.R.E. Act meet the limitations as set forth in this Rule, the individual/family may no longer be charged for RWCP essential health and essential support services. The care consortium may then bill the RWCP the full RWCP Reimbursement Rate.

(c) Individual/family annual gross income shall be determined by the care consortium by a signed declaration of gross income and family size by the medically eligible person or a person responsible for the eligible person.

(d) Once a person's financial status is determined for the purpose of assessing fee charges, the determination shall continue for the duration of the care episode, up to a maximum of one year.

(e) The care consortium shall document each eligible person's financial status determination on a form provided by the RWCP.

(f) The care consortium shall document individual and aggregate annual fees charged to an eligible person on a form provided by the program.

Statutory Authority G.S. 130A-223.

.0909 RATES OF REIMBURSEMENT

(a) Care consortia that contract for reimbursement funds shall be reimbursed for essential health services and essential support services provided to eligible persons in an amount and percentage based on the RWCP Reimbursement Rate in effect at the time service is rendered, as specified in Rule .0902(4) of this Section.

(b) Claims for reimbursement from the RWCP must be documented and reported on a quarterly basis on a form provided by the program. No claims for reimbursement will be accepted by the RWCP more than 180 days after the date of delivery of services. If after charging the program, the care consortium receives payment from the eligible person or other third party that would result in the care consortium receiving more than the RWCP Reimbursement Rate, the consortium shall reimburse the RWCP the difference between the total amount reimbursed from all sources and the RWCP Reimbursement Rate.

Statutory Authority G.S. 130A-223.

.0910 REIMBURSEMENT FUNDS: THIRD PARTY PAYORS

RWCP reimbursement funds shall be used to pay for services not reimbursed by a third party payor. A contracting care consortium must take reasonable measures to determine and subsequently collect the full legal liability of third party payors to pay for services reimbursed by the

program before requesting payment from the RWCP.

Statutory Authority G.S. 130A-223.

.0911 MONITORING

Each care consortium receiving reimbursement funds shall submit the following information in a form as prescribed by and in the time frames established in the contract:

- (1) RWCP quarterly report;
- (2) RWCP annual report;
- (3) Quarterly expenditure report;
- (4) Other information necessary for the effective administration of RWC Program.

Statutory Authority G.S. 130A-223.

.0912 AUDITS

Agency financial and statistical records, patient records, and any other pertinent information may be audited by the state as part of the overall monitoring and evaluation effort.

Statutory Authority G.S. 130A-223.

CHAPTER 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A - SANITATION

SECTION .2600 - SANITATION OF RESTAURANTS AND OTHER FOODHANDLING ESTABLISHMENTS

.2615 MILK AND MILK PRODUCTS

(a) Only Grade "A" pasteurized milk and milk products shall be used. The term "milk products" means those products as defined in 15A NCAC 18A .1200. Copies of 15A NCAC 18A .1200 may be obtained from the Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, North Carolina 27611-7687. Milk and milk products shall be served in the individual, original containers in which they were received from the distributor. However, approved sanitary bulk milk dispensers may be used and buttermilk may be poured only from a commercially filled container of not more than 1 2 gallon capacity.

(b) An exception may be made in the case of cream served with coffee, cereals, etc., as the distributor cannot deliver cream in the unit sizes that would be required. For such service, transferring to individual service units from the original container of not more than one-half gallon capacity, or from pumps, or other approved dispensers is permissible. The mixing of cream and milk or the pouring of either into jars, bot-

ties, or other containers for storage therein shall be prohibited.

(c) Bulk milk dispenser containers, as received from the distributor, shall be properly sealed, labeled with the name and grade of the contents and identity of the distributor. Only the outlet seal shall be broken in the establishment.

(d) Milk and milk products shall be stored in a sanitary manner and shall be kept refrigerated, except when being served. Milk containers shall not be completely submerged in water.

(e) Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products, or for cooking and baking purposes.

Statutory Authority G.S. 130A-248.

CHAPTER 19 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 19A - ACUTE COMMUNICABLE DISEASE CONTROL

SECTION .0100 - REPORTING OF COMMUNICABLE DISEASES

.0102 METHOD OF REPORTING

(a) When a report of a disease or condition is required to be made pursuant to G.S. 130A-135 through 139 and 15A NCAC 19A .0101, the report shall be made to the local health director as follows:

- (1) For diseases and conditions required to be reported within 24 hours, the initial report shall be made by telephone, and the report required by Paragraph (2) shall be made within seven days.
- (2) In addition to the requirements of Paragraph (1), the report shall be made on the communicable disease report card provided by the Division of Epidemiology and shall include the name and address of the patient, the name and address of any minor's parent or guardian, and all other pertinent epidemiologic information requested on the form.
- (3) Until September 1, 1994, reports of cases of confirmed HIV infection identified by anonymous tests that are conducted at HIV testing sites designated by the State Health Director pursuant to ~~15A NCAC 19A .0201(d)(10)~~ 15A NCAC 19A .0202(10) shall be made on forms provided by the Department for that purpose. No communicable disease report card shall be required. Effective September 1, 1994, anonymous testing shall be discontinued and all cases of confirmed HIV in-

fection shall be reported in accordance with 15A NCAC 19A .0102(a)(1) and (2).

- (4) In addition to the requirements of Paragraph (1) and (2), the epidemiologic information requested on a surveillance form provided by the Division of Epidemiology shall be completed and submitted for the reportable diseases and conditions identified in 15A NCAC 19A .0101 (1), (6), (17), (18), (19), (20), (21), (23), (24), (25), (26), (28), (29), (30), (32), (33), (34), (37), (38), (41), (42), (43), (44), (48), (49), (50), (51), (52), (53), (54), and (56).

- (5) Communicable disease report cards and surveillance forms are available from the morbidity unit, N.C. Division of Epidemiology, P.O. Box 27687, Raleigh, N.C. 27611, and from local health departments.

(b) Notwithstanding the time frames established in Rule .0101, a restaurant or other food or drink establishment is required to report all outbreaks or suspected outbreaks of foodborne illness in its customers or employees and all suspected cases of foodborne disease or foodborne condition in food-handlers at the establishment by telephone to the local health department within 24 hours in accordance with Paragraph (a) (1). However, the establishment is not required to submit a report card or surveillance form pursuant to Paragraphs (a) (2) and (a) (3).

(c) For the purposes of reporting by restaurants and other food or drink establishments pursuant to G.S. 130A-138, the diseases and conditions to be reported shall be those listed in 15A NCAC 19A .0101 (5), (7), (10), (14), (18), (45), (46), (50), (53) and (54).

(d) Laboratories required to report test results pursuant to G.S. 130A-139 shall report as follows:

- (1) The specified tests for syphilis and gonorrhea shall be reported to the local health department by the first and fifteenth of each month. Reports of gonorrhea and syphilis shall be made on a form provided by the Department and shall include the specimen collection date, the patient's age, race, and sex, and the submitting physician's name, address, and telephone numbers.
- (2) Positive darkfield examinations for syphilis shall be reported within 24 hours to the HIV STD Control Branch by telephone.
- (3) Positive tuberculosis test results shall be reported to the Tuberculosis Control Branch on a form provided by the Department within seven days.

Statutory Authority G.S. 130A-134; 130A-135; 130A-141.

**.0103 DUTIES LOCAL HEALTH DIRECTOR:
REPORT COMMUNICABLE DISEASES**

(a) Upon receipt of a report of a communicable disease or condition pursuant to 15A NCAC 19A .0101, the local health director shall:

- (1) immediately investigate the circumstances surrounding the occurrence of the disease or condition to determine the authenticity of the report and the identity of all persons for whom control measures are required. This investigation shall include the collection and submission for laboratory examination of specimens necessary to assist in the diagnosis and indicate the duration of control measures;
- (2) determine what control measures have been given and ensure that proper control measures as provided in 15A NCAC 19A .0201 have been given and are being complied with;
- (3) forward the report as follows:

(A) The local health director shall forward all authenticated reports made pursuant to G.S. 130A-135 to 137 of syphilis, chancroid, ~~chlamydial infection, gonorrhea,~~ granuloma inguinale, and lymphogranuloma venereum ~~nongonococcal urethritis, and syphilis as specified in 15A NCAC 19A .0101,~~ within seven days to the regional office of the HIV/STD Control Branch. In addition, the local health director shall telephone reports of all cases of primary, secondary, and early latent (under one year's duration) syphilis to the regional office of the HIV/STD Control Branch within 24 hours of diagnosis at the health department or report by a physician.

(B) The local health director shall telephone all laboratory reports of reactive syphilis serologies to the regional office of the HIV/STD Control Branch within 24 hours of receipt if the person tested is pregnant. This shall also be done for all other persons tested unless the dilution is less than 1:8 and the person is known to be over 25 years of age or has been previously treated. In addition, the written reports shall be sent to the regional office of the HIV/STD Control Branch within seven days.

(C) ~~(B)~~ Except as provided in (a)(3)(A) and (B), a local health director who receives a report pursuant to 15A NCAC 19A .0102

regarding a person residing in that jurisdiction shall forward the authenticated report to the Division of Epidemiology within seven days.

(D) ~~(C)~~ Except as provided in (a)(3)(A) and (B), a local health director who receives a report pursuant to 15A NCAC 19A .0102 regarding a person who resides in another jurisdiction in North Carolina shall forward the report to the local health director of that jurisdiction within 24 hours. A duplicate report card marked "copy" shall be forwarded to the Division of Epidemiology within seven days.

(E) ~~(D)~~ A local health director who receives a report pursuant to 15A NCAC 19A .0102 regarding a person who resided outside of North Carolina at the time of onset of the illness shall forward the report to the Division of Epidemiology within 24 hours.

(b) Whenever a cluster of cases of a reportable disease or condition occurs, the local health director shall investigate the cluster to determine if an outbreak exists. If an outbreak exists, the local health director shall submit to the Division of Epidemiology within 30 days a written report of the investigation, its findings, and the actions taken to control the outbreak and prevent a recurrence.

(c) Whenever a cluster of cases of a disease or condition occurs which is not required to be reported by 15A NCAC 19A .0101 but which represents a significant threat to the public health, the local health director shall investigate the cluster to determine if an outbreak exists. If an outbreak exists, the local health director shall give appropriate control measures consistent with 15A NCAC 19A .0200, and inform the Division of Epidemiology of the circumstances of the outbreak within seven days.

Statutory Authority G.S. 130A-141; 130A-144.

SECTION .0200 - CONTROL MEASURES FOR COMMUNICABLE DISEASES

.0201 CONTROL MEASURES - GENERAL

(a) Except as provided in Rules .0202 and .0203 - .0205 of this Section, the specific control measures recommendations and guidelines for testing, diagnosis, treatment, follow-up, and prevention of transmission for each disease and condition shall be those specified by the American Public Health Association in its publication, Control of Communicable Disease in Man shall be the required control measures. Control of Communicable Disease in Man is hereby

adopted by reference in accordance with G.S. 150B-14(c). Copies of this publication are available from the American Public Health Association, Department JE, 1015 15th Street, N.W., Washington, DC 20005. A copy is available for inspection in the Communicable Disease Control Section, Cooper Memorial Health Building, 225 N. McDowell Street, Raleigh, North Carolina 27602.

(b) In interpreting and implementing the specific control measures adopted in Paragraph (a) of this Rule, and in devising control measures for outbreaks designated by the State Health Director and for communicable diseases and conditions for which a specific control measure is not provided by this Rule, the following principles shall be used:

- (1) control measures shall be those which can reasonably be expected to decrease the risk of transmission and which are consistent with recent scientific and public health information;
- (2) for diseases or conditions transmitted by the airborne route, the control measures shall require physical isolation for the duration of infectivity;
- (3) for diseases or conditions transmitted by the fecal-oral route, the control measures shall require exclusions from situations in which transmission can be reasonably expected to occur, such as work as a paid or voluntary food handler or attendance or work in a day care center for the duration of infectivity;
- (4) for diseases or conditions transmitted by sexual or the blood-borne route, control measures shall require prohibition of donation of blood, tissue, organs, or semen, needle-sharing, and sexual contact in a manner likely to result in transmission for the duration of infectivity.

(c) Persons with congenital rubella syndrome, tuberculosis, and carriers of Salmonella typhi and hepatitis B who change residence to a different local health department jurisdiction shall notify the local health director in both jurisdictions.

(d) Isolation and quarantine orders for communicable diseases and communicable conditions for which control measures have been established shall require compliance with applicable control measures and shall state penalties for failure to comply. These isolation and quarantine orders may be no more restrictive than the applicable control measures.

(e) Health care workers, including emergency responders and funeral service personnel, shall follow blood and body fluid precautions with all patients.

(f) All equipment used to puncture human skin (in medical or other settings) must be disposed of in accordance with 15A NCAC 13B after use or sterilized prior to reuse.

(g) An individual enrolled in an epidemiologic or clinical study shall not be required to meet the provisions of 15A NCAC 19A .0201 - .0205 which conflict with the study protocol if:

- (1) the protocol is approved for this purpose by the State Health Director because of the scientific and public health value of the study, and
- (2) the individual fully participates in and completes the study.

Statutory Authority G.S. 130A-135; 130A-144.

.0202 CONTROL MEASURES - HIV

The following are the control measures for the Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) infection:

(1) Infected persons shall:

- (a) refrain from sexual intercourse unless condoms are used; exercise caution when using condoms due to possible condom failure;
- (b) not share needles or syringes;
- (c) not donate or sell blood, plasma, platelets, other blood products, semen, ova, tissues, organs, or breast milk;
- (d) have a skin test for tuberculosis;
- (e) notify future sexual intercourse partners of the infection; if the time of initial infection is known, notify persons who have been sexual intercourse and needle partners since the date of infection; and, if the date of initial infection is unknown, notify persons who have been sexual intercourse and needle partners for the previous year.

(2) The attending physician shall:

- (a) give the control measures in Paragraph (1) of this Rule to infected patients, in accordance with 15A NCAC 19A .0210;
- (b) give the patient a form provided by the Division of Epidemiology and encourage its use for listing partners for whom notification is required in Subparagraph (1)(e) of this Rule; the physician shall encourage the patient to arrange an appointment with a Division of Epidemiology AIDS counselor regarding partner notification and to complete the form, and either take it to the Division of Epidemiology AIDS counselor or mail it to the Division so that the Division may undertake counseling of the partners to prevent further transmission. The Divi-

sion of Epidemiology shall destroy the list after it has counseled the partners or after a reasonable attempt has been made to do so;

- (c) If the attending physician knows the identity of the spouse of an HIV-infected patient and has not, with the consent of the infected patient, notified and counseled the spouse appropriately, the physician shall list the spouse on a form provided by the Division of Epidemiology and shall mail the form to the Division; the Division will undertake to counsel the spouse; the attending physician's responsibility to notify exposed and potentially exposed persons is satisfied by fulfilling the requirements of Subparagraph (2)(b) and (c) of this Rule;

- (d) advise infected persons concerning proper clean-up of blood and other body fluids;
- (e) advise infected persons concerning the risk of perinatal transmission and transmission by breastfeeding.

- (3) The attending physician of a child who is infected with HIV and who may pose a significant risk of transmission in the school or day care setting because of open, oozing wounds or because of behavioral abnormalities such as biting shall notify the local health director. The local health director shall consult with the attending physician and investigate the circumstances.

- (a) If the child is in school or scheduled for admission and the local health director determines that there may be a significant risk of transmission, the local health director shall consult with an interdisciplinary committee, which shall include appropriate school personnel, a medical expert, and the child's parent or guardian to assist in the investigation and determination of risk. The local health director shall notify the superintendent or private school director of the need to appoint such an interdisciplinary committee.

- (i) If the superintendent or private school director establishes such a committee within three days of notification, the local health director shall consult with this committee.

- (ii) If the superintendent or private school director does not establish such a committee within three days of notification, the local health director shall establish such a committee.

- (b) If the child is in school or scheduled for admission and the local health director determines, after consultation with the

committee, that a significant risk of transmission exists, the local health director shall:

- (i) notify the parents;
 - (ii) notify the committee;
 - (iii) assist the committee in determining whether an adjustment can be made to the student's school program to eliminate significant risks of transmission;
 - (iv) determine if an alternative educational setting is necessary to protect the public health;
 - (v) instruct the superintendent or private school director concerning appropriate protective measures to be implemented in the alternative educational setting developed by appropriate school personnel; and
 - (vi) consult with the superintendent or private school director to determine which school personnel directly involved with the child need to be notified of the HIV infection in order to prevent transmission and ensure that these persons are instructed regarding the necessity for protecting confidentiality.
- (c) If the child is in day care and the local health director determines that there is a significant risk of transmission, the local health director shall notify the parents that the child must be placed in an alternate child care setting that eliminates the significant risk of transmission.
- (4) When health care workers or other persons have had a nonsexual blood or body fluid exposure a needlestick or nonsexual non-intact skin or mucous membrane exposure to blood or body fluids that poses a significant risk of HIV transmission, the following shall apply:
- (a) When the source person is known:
 - (i) The attending physician or occupational health care provider responsible for the exposed person, if other than the attending physician of the source shall notify the attending physician of the person whose blood or body fluids is the source of the exposure, shall notify the attending physician of the source that an exposure has occurred. If the attending physician of the source person knows the source's HIV infection status, the physician shall transmit this information to the attending physician of the exposed person. If the The attending physician of the source person does not know the infection status of the source person, the physician shall discuss the exposure with the source and

if the source person is at high risk for HIV infection shall request permission for testing test the source for HIV infection If permission is granted, the source shall be tested. If permission is denied, the local health director may order testing of the source if the local health director determines that the exposure poses a significant risk of transmission of HIV and that the source is at high risk for HIV infection, unless the source is already known to be infected. Whether or not the source is tested, the The attending physician of the exposed person shall be notified of the risk status of the source and the infection status of the source, if known.

- (ii) The attending physician of the exposed person shall inform the exposed person about the infection status of the source, if known, offer testing for HIV infection as soon as possible after exposure and at reasonable intervals up to one year to determine whether transmission occurred, and, if the physician determines that there is a substantial risk that the source person was HIV infected, give the exposed person the control measures listed in (1)(a) through (c) of this Rule. The attending physician of the exposed person shall instruct the exposed person regarding the necessity for protecting confidentiality.
 - (b) When the source person is unknown, the attending physician of the exposed person shall inform the exposed person of the risk of transmission and offer testing for HIV infection as soon as possible after exposure and at reasonable intervals up to one year to determine whether transmission occurred.
 - (c) A health care facility may release the name of the attending physician of a source person upon request of the attending physician of an exposed person.
- (5) The attending physician shall notify the local health director when the physician, in good faith, has reasonable cause to suspect a patient infected with HIV is not following or cannot follow control measures and is thereby causing a significant risk of transmission.
- (6) When the local health director is notified pursuant to Paragraph (5) of this Rule, of a person who is mentally ill or mentally retarded, the local health director shall confer with the attending mental health physician or appropriate mental health authority and the physician who notified the local health

- director to develop an appropriate plan to prevent transmission.
- (7) The Director of Health Services of the North Carolina Department of Correction and the prison facility administrator shall be notified ~~by the attending physician of any HIV-infected person confined in a state prison~~ when any person confined in a state prison is determined to be infected with HIV. If the prison facility administrator, in consultation with the Director of Health Services, determines that a confined HIV-infected person is not following or cannot follow prescribed control measures, thereby presenting a significant risk of HIV transmission, the administrator and the Director shall develop and implement jointly a plan to prevent transmission, including making appropriate recommendations to the unit housing classification committee.
- (8) The local health director shall ensure that the health plan for local jails include education of jail staff and prisoners about HIV, how it is transmitted, and how to avoid acquiring or transmitting this infection.
- (9) Health care workers with HIV infection who have secondary infections or open skin lesions which would place patients at risk shall not provide direct patient care. Otherwise, these control measures do not require restrictions in the workplace of persons with HIV infection.
- (10) Local health departments shall provide free testing for HIV infection with individual pre- and post-test counseling. By August 1, 1991, the State Health Director shall designate a minimum of 16 local health departments to provide anonymous testing. Beginning September 1, 1991, only cases of confirmed HIV infection identified by anonymous tests conducted at local health departments designated as anonymous testing sites pursuant to this Subparagraph shall be reported in accordance with 15A NCAC 19A .0102(a)(3). All other cases of confirmed HIV infection shall be reported in accordance with 15A NCAC 19A .0102(a)(1) and (2). Effective September 1, 1994, anonymous testing shall be discontinued and all cases of confirmed HIV infection shall be reported in accordance with 15A NCAC 19A .0102(a)(1) and (2).
- (11) Appropriate counseling for HIV testing shall include individualized pre- and post-test counseling which provides risk assessment, risk reduction guidelines, appropriate referrals for medical and psychosocial services, and, when the person tested is determined to be infected with HIV, control measures.
- (12) A person charged with an offense that involves nonconsensual vaginal, anal, or oral intercourse, or that involves vaginal, anal, or oral intercourse with a child 12 years old or less shall be tested for HIV infection if:
- (a) probable cause has been found or an indictment has been issued;
 - (b) the victim notifies the local health director and requests information concerning the HIV status of the defendant; and
 - (c) the local health director determines that the alleged sexual contact involved in the offense would pose a significant risk of transmission of HIV if the defendant were HIV infected. If in custody of the Department of Correction, the person shall be tested by the Department of Corrections and if not in custody, the person shall be tested by the local health department. The Department of Corrections shall inform the local health director of all such test results. The local health director shall inform the victim of the results of the test, counsel the victim appropriately, and instruct the victim regarding the necessity for protecting confidentiality.
- (13) A local health department or the Department may release information regarding an infected person pursuant to G.S. 130A-143(3) only when the local health department or the Department has provided direct medical care to the infected person and refers the person to or consults with the health care provider to whom the information is released.
- (14) Notwithstanding the provisions of 15A NCAC 19A .0202, when a person with HIV infection is enrolled in a study of the efficacy of alternative methods of notifying past sexual and needle partners, such notification shall be made in accordance with the study protocol if:
- (a) the study protocol is approved by the State Health Director; and
 - (b) the person with HIV infection fully participates in and completes the study.
- (15) Notwithstanding Rule .0201(d) of this Section, a local or state health director may include in an isolation order for HIV-infected persons a requirement that the infected person attend education and counseling sessions about how HIV is transmitted and how to prevent transmission, participate in appropriate mental health or substance abuse counseling and treatment, or participate in vocational rehabilitation if

the HIV-infected person otherwise qualifies for these services.

Statutory Authority G.S. 130A-135; 130A-144.

.0204 CONTROL MEASURES - SEXUALLY TRANSMITTED DISEASES

(a) Local health departments shall provide diagnosis, testing, treatment, follow-up, and preventive services for syphilis, gonorrhea, chlamydia, nongonococcal urethritis, mucopurulent cervicitis, chancroid, lymphogranuloma venereum, and granuloma inguinale. These services shall be provided upon request and at no charge to the patient.

(b) Persons infected with, exposed to, or reasonably suspected of being infected with syphilis, lymphogranuloma venereum, granuloma inguinale, and chaneroid shall:

- (1) Refrain from sexual intercourse until examined, diagnosed and treatment is completed, and all lesions are healed;
- (2) Be tested, treated, and re-evaluated in accordance with the STD Treatment Guidelines published by the U.S. Public Health Service, which are adopted by reference in accordance with G. S. 150B-14(c). However, urethral Gram stains may be used for diagnosis of males rather than gonorrhea cultures unless treatment has failed;
- (3) Notify all sexual partners from 30 days before the onset of symptoms to completion of therapy that they must be evaluated by a physician or local health department.

(c) Persons infected with, exposed to, or reasonably suspected of being infected with syphilis, lymphogranuloma venereum, granuloma inguinale, and chaneroid shall:

- (1) Refrain from sexual intercourse until examined, diagnosed, and treatment is completed, and all lesions are healed;
- (2) Be tested, treated, and re-evaluated in accordance with the STD Treatment Guidelines published by the U.S. Public Health Service, except that chancroid cultures shall not be required;
- (3) Give names to a disease intervention specialist employed by the local health department or by the HIV STD Control Branch for contact tracing of all sexual partners and others as listed in (c), (3), (A), (i), (ii), (iii), (iv), (B), (i), (ii), (C), and (D) of this Rule:

(A) for syphilis:

- (i) congenital - all immediate family members;

(ii) primary - all partners from three months before the onset of symptoms to completion of therapy and healing of lesions;

(iii) secondary - all partners from six months before the onset of symptoms to completion of therapy and healing of lesions; and

(iv) latent - all partners from 12 months before the onset of symptoms to completion of therapy and healing of lesions and, in addition, for women with late latent, spouses and children;

(B) for lymphogranuloma venereum:

(i) if there is a primary lesion and no buboes, all partners from 30 days before the onset of symptoms to completion of therapy and healing of lesions; and

(ii) if there are buboes all partners from six months before the onset of symptoms to completion of therapy and healing of lesions;

(C) for granuloma inguinale - all partners from three months before the onset of symptoms to completion of therapy and healing of lesions; and

(D) for chaneroid - all partners from ten days before the onset of symptoms to completion of therapy and healing of lesions.

(d) All persons evaluated or reasonably suspected of being infected with any sexually transmitted disease shall be tested for syphilis, encouraged to be tested confidentially for HIV, and counseled about how to reduce the risk of acquiring sexually transmitted disease, including the use of condoms.

(e) All pregnant women shall be tested for syphilis and gonorrhea early in pregnancy and in the third trimester. Pregnant women at high risk for exposure to syphilis and gonorrhea shall also be tested for syphilis and gonorrhea at the time of delivery.

(f) All newborn infants shall be treated prophylactically against gonococcal ophthalmia neonatorum in accordance with the STD Treatment Guidelines published by the U. S. Public Health Service.

Statutory Authority G. S. 130A-135; 130A-144.

.0205 CONTROL MEASURES - TUBERCULOSIS

(a) The local health director shall promptly investigate all cases of tuberculosis disease and their contacts in accordance with the provisions of Control of Communicable Diseases in Man.

(b) The following persons shall be skin tested for tuberculosis and given appropriate clinical, microbiologic and x-ray examination in accordance with the "Diagnostic Standards and Classification of Tuberculosis," published by the American Thoracic Society, which is adopted by reference in accordance with G. S. 150B-14(c):

- (1) Household and other close contacts of active cases of tuberculosis;
- (2) Persons reasonably suspected of having tuberculosis disease;
- (3) Inmates in the custody of, and staff with direct inmate contact in, the Department of Corrections upon incarceration or employment, and annually thereafter;
- (4) Patients and staff in long term care facilities upon admission or employment and annually thereafter;
- (5) Clients and staff in residential facilities operated by the Department of Human Resources upon admission or employment and annually thereafter.

(c) Treatment and follow-up for tuberculosis infection or disease shall be in accordance with "Treatment of Tuberculosis and Tuberculosis Infection in Adults and Children," published by the American Thoracic Society, which is adopted by reference in accordance with G. S. 150B-14(c). However, liver function testing shall not be required for persons under 35 years of age with no symptoms of liver disease. Infected persons shall complete treatment and treatment shall not be interrupted for more than two months unless:

- (1) They are asymptomatic, have a normal chest x-ray, are 35 years of age or older, and are not at high risk of developing tuberculosis as provided in "Treatment of Tuberculosis and Tuberculosis Infection in Adults and Children," published by the American Thoracic Society; or
- (2) A medical panel consisting of at least two physicians employed by Tuberculosis Control Branch and the Chief or Assistant Chief for Science of the Communicable Disease Control Section approve discontinuation of therapy.

(d) The attending physician shall instruct all patients treated for tuberculosis regarding the potential side effects of the medications prescribed and to promptly notify the physician if side effects occur.

(e) Persons with pulmonary or laryngeal tuberculosis who are known or reasonably suspected to be infected with *Mycobacterium tuberculosis* resistant to the usual medications used for treatment shall be restricted to their homes, an appropriate health care facility, or in

some other appropriate manner to prevent transmission until:

- (1) they are free of cough; or
 - (2) three consecutive smears or cultures are negative; or
 - (3) they have been compliant for at least three weeks on medications to which the organism is known to be susceptible and have responded clinically.
- (f) Persons with pulmonary or laryngeal tuberculosis who are hospitalized, in prison, or a longterm care facility, shall be placed in respiratory isolation until:
- (1) they are free of cough; or
 - (2) three consecutive smears or cultures are negative; or
 - (3) been compliant for at least three weeks on medications to which the organism is reasonably thought to be susceptible and have responded clinically.

(g) Persons with known or suspected pulmonary tuberculosis who work in a health care or institutional setting or who work in or attend child daycare or with known or suspected laryngeal tuberculosis shall be restricted to their homes, an appropriate health care facility, or in some other appropriate manner to prevent transmission until:

- (1) they are free of cough; or
- (2) three consecutive smears or cultures are negative; or
- (3) they have been compliant for at least three weeks on medications to which the organism is reasonably thought to be susceptible and have responded clinically.

Statutory Authority G. S. 130A-135; 130A-144.

.0213 COMMUNICABLE DISEASE FINANCIAL GRANTS AND CONTRACTS

(a) The Communicable Disease Control Section may enter into financial arrangements with local health departments, community hospitals, nursing homes, or other convalescent facilities, and with physicians for the purpose of providing specific health care services for communicable diseases and the implementation of the control measures prescribed in this Rule.

(b) The HIV/STD Control Branch may authorize a local health department to obtain required diagnostic and treatment services for persons with syphilis, gonorrhea, chancroid, lymphogranuloma venereum, and granuloma inguinale from physicians:

- (1) The amount to be charged for these services shall be negotiated between the local health department and the physician and approved by the HIV/STD Control

Branch at the lowest agreeable rate, not to exceed approved Medicaid reimbursement rates. Drugs used in treatment may be provided to such physicians by the local health department.

- (2) The physician shall bill the local health department for services provided. The local health department shall submit requests for payment to the HIV/STD Control Branch on forms provided by the Division of Epidemiology.
- (c) The Tuberculosis Control Branch may:
 - (1) Contract with hospitals to provide inpatient diagnostic and hospitalization services for eligible tuberculosis patients if:
 - (A) Private rooms with negative air pressure with respect to the hallways and other rooms are available;
 - (B) A qualified physician is willing to accept inpatient referrals from surrounding counties;
 - (C) There is a laboratory that performs mycobacterial studies at the hospital;
 - (D) There is a radiological department at the hospital, including a radiologist;
 - (E) There is an infection control program at the hospital to monitor the staff and patients to minimize the occurrence of nosocomial tuberculosis infection;
 - (F) There is a program at the hospital to ensure that the risk for employees developing or transmitting tuberculosis is low; and
 - (G) Funds are available.
 - (2) Contract with licensed nursing homes or other convalescent facilities to provide inpatient treatment and convalescent care to eligible tuberculosis patients if:
 - (A) Private rooms with negative air pressure with respect to the hallways and other rooms are available;
 - (B) A qualified physician is willing to accept inpatient referrals;
 - (C) There is an infection control program to monitor the staff and patients to minimize the occurrence of nosocomial tuberculosis infection;
 - (D) There is a program to ensure that the risk for employees developing or transmitting tuberculosis is low;
 - (E) Necessary laboratory tests, radiological and transportation services are available at the facility, through contracts, or by some other arrangement; and
 - (F) Funds are available.

Statutory Authority G. S. 130A-5; 130A-135; 130A-144.

.0214 ELIGIBILITY FOR TUBERCULOSIS HOSPITALIZATION SERVICES

(a) A patient shall be medically eligible for payment for up to seven days inpatient hospitalization for diagnosis of tuberculosis at a hospital designated by the Tuberculosis Control Branch pursuant to Rule .0213 of this Section and the patient is suspected of having *Mycobacterium tuberculosis* disease based upon the finding of one or more of the following:

- (1) Evidence of acid-fast bacilli found by direct microscopy or by culture techniques;
- (2) Histopathologic evidence of tuberculosis in an active form;
- (3) Positive tuberculin skin test reaction using intermediate strength purified protein derivative (PPD), five tuberculin units and suggestive symptoms;
- (4) X-ray or clinical evidence suggestive of the presence of tuberculosis in an active form; or
- (5) Epidemiologic information supportive of a diagnosis of tuberculosis in an active form.

(b) If a patient is diagnosed as having *Mycobacterium tuberculosis* by a physician licensed to practice medicine in this State, then the patient shall be medically eligible for up to 21 days of hospitalization per year beginning the first day of financial eligibility for the treatment of the disease and for the cost of ambulance services from the contracting hospital to a program-designated medical facility.

(c) If the head of the Tuberculosis Control Branch determines that additional treatment is medically necessary because of the tuberculosis condition, the head of the Branch may extend the period of medical eligibility beyond the periods specified in Paragraph (a) and (b) of this Rule.

(d) The medical care payments described in this Rule are available only for services provided at a hospital which has contracted with the Tuberculosis Program for these services.

(e) Financial eligibility and payment procedures shall be determined in accordance with requirements for medical care payments found in 15A NCAC 24A.

Statutory Authority G. S. 130A-5; 130A-135; 130A-144.

.0215 ELIGIBILITY FOR TUBERCULOSIS NURSING HOME SERVICES

(a) A patient shall be medically eligible for reimbursement for up to 60 days per year for treatment and convalescent services at a nursing home designated by the Tuberculosis Control

Branch pursuant to Rule .0213 of this Section and the following criteria are met:

- (1) The applicant has active pulmonary or disseminated tuberculosis associated with incapacitation or significant debilitation which requires a SNF or ICF level of care. To aid in making this determination, the referring physician shall provide a treatment plan and project a length of stay for the patient at the nursing home.
- (2) The applicant has positive bacteriology for tuberculosis. The positive bacteriology (AFB) must have been obtained within the preceding 14 days.
- (3) The applicant does not need an acute level of hospital care for any condition.
- (4) The applicant is 16 years of age or over.
- (5) The applicant is referred by a licensed physician who has first-hand knowledge of the applicant's mental and physical condition. The referring physician shall furnish a summary of the applicant's physical and mental condition and known infirmities, and specific details of treatment and medication the applicant is taking with orders for dosage, frequency and duration. This summary shall include all known allergies and previous reactions to anti-tuberculosis and all other medications. In addition, dietary needs, pertinent x-rays, and copies of laboratory reports shall be forwarded with the patient or in advance.
- (6) The head of the Tuberculosis Control Branch may make exceptions to the criteria contained in Subparagraphs (1) through (5) of this Paragraph if the patient would be best treated for tuberculosis at a licensed nursing home.
- (b) If the head of the Tuberculosis Control Branch determines that additional treatment or convalescent care at a licensed nursing home is medically necessary because of tuberculosis, the head of the Branch may extend medical eligibility for more than 60 days per year.
- (c) Financial eligibility and payment procedures shall be determined in accordance with 15A NCAC 24A.

Statutory Authority G. S. 130A-5; 130A-135; 130A-144.

SECTION .0400 - IMMUNIZATION

.0401 DOSAGE AND AGE REQUIREMENTS FOR IMMUNIZATION

(a) Every individual in North Carolina required to be immunized pursuant to G.S. 130A-152

through 130A-157 shall be immunized against the following diseases by receiving the specified minimum doses of vaccines by the specified ages:

- (1) diphtheria, tetanus, and whooping cough -- five doses: three doses by age one year and two booster doses, one in the second year of life and the second on or after the fourth birthday and before enrolling in school (K-1) for the first time;
- (2) oral poliomyelitis vaccine--three doses of trivalent type by age two years and a booster dose of trivalent type on or after the fourth birthday and before enrolling in school (K-1) for the first time; two doses of enhanced-potency inactivated poliomyelitis vaccine may be substituted for two doses of oral poliomyelitis vaccine.
- (3) measles (rubeola) vaccine -- one dose of live, attenuated vaccine by age two years;
- (4) rubella vaccine -- one dose of live, attenuated vaccine by age two years;
- (5) mumps vaccine--one dose of live attenuated vaccine by age two years;
- (6) Hemophilus influenzae, b, conjugate vaccine -- three doses of HibOC or two doses of PRP-OMP by age one year and a booster dose of any type by the second birthday.
- (b) Notwithstanding the requirements of Paragraph (a) of this Regulation:
 - (1) An individual who has attained his or her seventh birthday without having been immunized against whooping cough shall not be required to be immunized with a vaccine preparation containing whooping cough antigen.
 - (2) An individual who has been documented by serologic testing to have a protective antibody titer against rubella shall not be required to receive rubella vaccine.
 - (3) An individual who has been diagnosed by a physician licensed to practice medicine as having measles (rubeola) disease shall not be required to receive measles vaccine.
 - (4) An individual attending school who has attained his or her 18th birthday shall not be required to receive oral polio vaccine.
 - (5) An individual born prior to 1957 shall not be required to receive measles vaccine. An individual who has attained his or her fiftieth birthday shall not be required to receive rubella vaccine. An individual who entered a college or university after his or her thirtieth birthday and before February 1, 1989 shall not be required to meet the requirement for rubella vaccine.
 - (6) Except as provided in Subparagraph (b)(8) of this Rule, the requirements for mumps

vaccine, and for booster doses of diphtheria, tetanus, and whooping cough vaccine and oral poliomyelitis vaccine, shall not apply to individuals who enrolled for the first time in the first grade before July 1, 1987.

- (7) Individuals who receive the first booster dose of diphtheria, tetanus, and whooping cough vaccine on or after the fourth birthday shall not be required to have a second booster dose. Individuals who receive the third dose of oral poliomyelitis vaccine on or after the fourth birthday shall not be required to receive a fourth dose.
- (8) Individuals attending a college or university shall be required to have three doses of diphtheria tetanus toxoid of which one must have been within the last ten years.
- (9) Individuals born before October 1, 1991 shall not be required to be vaccinated against Hemophilus influenzae, b.

Statutory Authority G.S. 130A-152(c), 130A-155.1.

SUBCHAPTER 19D - TUBERCULOSIS CONTROL

SECTION .0100 - GENERAL POLICIES

- .0101 SCOPE (REPEALED)
.0102 FINANCIAL GRANTS IN AID (REPEALED)
.0103 REPORTING OF TUBERCULOSIS CASES (REPEALED)
.0104 EXAMINATION RESULTS (REPEALED)
.0105 SOURCE OF CONTROL GUIDELINES AND MEASURES (REPEALED)

Statutory Authority G.S. 130A-177.

SECTION .0200 - REPORTING OF TUBERCULOSIS CASES

- .0201 REPORTING GENERALLY (REPEALED)
.0202 TUBERCULOSIS SUSPECTS/HEALTH DEPARTMENTS (REPEALED)
.0203 VERIFICATION OF CASE REPORTS (REPEALED)

Statutory Authority G.S. 130A-177.

- .0204 LABORATORY REPORTS (REPEALED)

Statutory Authority G.S. 130A-139; 130A-141.

SECTION .0300 - MOVEMENT OF TUBERCULOSIS CASES, CONTACTS, AND SUSPECTS

- .0301 DEFINITION OF EPIDEMIOLOGIC INFORMATION (REPEALED)
.0302 MOVEMENT WITHIN STATE (REPEALED)
.0303 MOVEMENT OUTSIDE STATE (REPEALED)
.0304 CONFIDENTIALITY (REPEALED)

Statutory Authority G.S. 130A-177.

SECTION .0400 - SERVICES AND GRANTS

- .0401 CLINICIAN SERVICES (REPEALED)
.0402 NURSING SERVICES (REPEALED)
.0403 X-RAY TECHNOLOGY CONSULTANT SERVICES (REPEALED)
.0404 ANTI-TUBERCULOSIS DRUGS (REPEALED)
.0405 FINANCIAL GRANTS AND CONTRACTS (REPEALED)
.0406 PAYMENTS FOR MEDICAL CARE (REPEALED)
.0407 MEDICAL ELIGIBILITY (REPEALED)

Statutory Authority G.S. 130A-177.

SUBCHAPTER 19F - SEXUALLY TRANSMITTED DISEASE CONTROL

SECTION .0100 - GENERAL POLICIES

- .0101 SCOPE (REPEALED)

Statutory Authority G.S. 130A-160.

- .0103 TECHNICAL ASSISTANCE (REPEALED)
.0104 DRUGS (REPEALED)
.0105 REIMBURSEMENT FOR EXAMINATION AND TREATMENT SERVICES (REPEALED)

Statutory Authority G.S. 130A-160.

SECTION .0200 - SYPHILIS CONTROL PROGRAM

- .0201 SCOPE (REPEALED)

Statutory Authority G.S. 130A-160.

- .0203 CASE INTERVIEW (REPEALED)

Statutory Authority G.S. 130A-160.

SECTION .0300 - GONORRHEA CONTROL PROGRAM

- .0301 SCOPE (REPEALED)
.0302 SCREENING (REPEALED)
.0303 CONTRACTS FOR LABORATORY SERVICES (REPEALED)
.0304 PATIENT INTERVIEW AND COUNSELING SESSIONS (REPEALED)
.0305 PREVENTION OF OPHTHALMIA

PROPOSED RULES

NEONATORUM (REPEALED)

Statutory Authority G.S. 130A-160.

SECTION .0400 - REPORTING

.0401 CASE REPORTS (REPEALED)

.0402 PRIVATE LABORATORY REPORT (REPEALED)

*Statutory Authority G.S. 130A-139; 130A-141;
130A-160.*

CHAPTER 20 - LABORATORY SERVICES

SUBCHAPTER 20C - MILK AND WATER LABORATORY CERTIFICATION

.0002 WATER LABORATORY CERTIFICATION

Water laboratories in local health departments, commercial laboratories, and industrial laboratories are certified by this laboratory to perform bacteriological, chemical, and radio-chemical examinations for determining the sanitary quality of water in accordance with United States Public Health Drinking Water Standards, United States Environmental Protection Agency (EPA) Safe Drinking Water Act and 15A NCAC 18C.

Statutory Authority G.S. 130A-88.

SUBCHAPTER 20D - CERTIFICATION AND IMPROVEMENT

SECTION .0200 - LABORATORY CERTIFICATION

.0201 SCOPE (REPEALED)

.0202 NOTICE AND PROCEDURE (REPEALED)

.0203 CERTIFICATION: CERTIFICATION RENEWAL: AND FEES (REPEALED)

Statutory Authority G.S. 130A-315; 130A-326.

.0204 REVOCATION, DOWNGRADING OR DENIAL (REPEALED)

.0205 RECERTIFICATION (REPEALED)

.0206 CERTIFICATION OF OUT-OF-STATE LABORATORIES (REPEALED)

.0207 CONTRACT LABORATORIES (REPEALED)

Statutory Authority G.S. 130A-315; 130A-326.

.0208 CHEMISTRY FACILITIES (REPEALED)

.0209 CHEMISTRY EQUIPMENT (REPEALED)

.0210 CHEMISTRY GENERAL LABORATORY PRACTICES (REPEALED)

.0211 CHEMISTRY METHODOLOGY (REPEALED)

.0212 CHEMISTRY SAMPLES (REPEALED)

.0213 CHEMISTRY QUALITY CONTROL (REPEALED)

.0214 CHEMISTRY DATA (REPEALED)

.0215 CHEMISTRY ACTION RESPONSE (REPEALED)

.0216 MICROBIOLOGY FACILITIES (REPEALED)

.0217 MICROBIOLOGY EQUIPMENT (REPEALED)

.0218 MICROBIOLOGY GENERAL LABORATORY PRACTICES (REPEALED)

.0219 MICROBIOLOGY METHODOLOGY (REPEALED)

.0220 MICROBIOLOGY SAMPLES (REPEALED)

.0221 MICROBIOLOGY QUALITY CONTROL (REPEALED)

.0222 MICROBIOLOGY DATA (REPEALED)

.0223 MICROBIOLOGY ACTION RESPONSE (REPEALED)

.0224 RADIOCHEMISTRY FACILITIES (REPEALED)

Statutory Authority G.S. 130A-315.

.0226 RADIOCHEMISTRY GENERAL LABORATORY PRACTICES (REPEALED)

.0227 RADIOCHEMISTRY METHODS AND SAMPLING (REPEALED)

.0228 RADIOCHEMISTRY QUALITY CONTROL (REPEALED)

.0229 RADIOCHEMISTRY DATA (REPEALED)

.0230 RADIOCHEMISTRY ACTION RESPONSE (REPEALED)

Statutory Authority G.S. 130A-315.

.0231 SCOPE

A laboratory wishing to perform analyses of public water systems pursuant to 15A NCAC 18C .1500 shall be certified by the Division of Laboratory Services and shall meet the minimum requirements for certification contained in Rules .0231 through .0261 of this Section for each test category it wishes to perform. A laboratory may also be certified by the Division if certified by the United States Environmental Protection Agency (EPA).

Statutory Authority G.S. 130A-315.

.0232 NOTICE AND PROCEDURE

(a) A laboratory seeking certification shall request in writing an application for certification from the Division of Laboratory Services. The application for certification shall include:

- (1) Name and address of the laboratory and its owner(s) or directors;
- (2) Names and qualifications of the laboratory personnel;

- (3) Test categories for which certification is requested;
- (4) Description of facilities, equipment, and methodologies;
- (5) Such other information as the Department of Environment, Health, and Natural Resources deems necessary for certification purposes.

(b) Upon review of the application by a state laboratory certification evaluator, and successful analyses of water performance samples, an on-site visit shall be scheduled to evaluate the laboratory premises.

(c) A written report describing deviations from minimum requirements shall be prepared by the laboratory certification evaluator and submitted to the laboratory director or other responsible person. Within 30 days of receiving the written report, the laboratory shall submit a letter with supporting documents (records, reports, data, purchase orders, or other documents) showing the action taken to comply with the minimum requirements. The letter shall be sent to the laboratory certification evaluator for review.

Statutory Authority G.S. 130A-315.

**.0233 CERTIFICATION, CERTIFICATION
RENEWAL AND FEES**

(a) The Department of Environment, Health, and Natural Resources shall grant certification for the test categories requested upon finding that a laboratory meets the minimum requirements set forth in this Section.

(b) A laboratory may renew its certification every year by payment of the certification fee by December 1 of the preceding year. If the fee has not been paid by December 31 of each year, the laboratory's certification shall not be renewed for the next year, and the laboratory shall apply for recertification pursuant to Rule .0235 of this Section. In addition to payment of the certification fee, an on-site evaluation by a laboratory certification evaluator and compliance with the minimum requirements of this Section are required for renewal.

(c) The certificate and information pertaining to certification shall remain the property of the Department of Environment, Health, and Natural Resources and shall be surrendered upon decertification pursuant to Rule .0234 of this Section. All certification information shall be available for public access pursuant to Chapter 132 of North Carolina General Statutes.

(d) The certification fee shall be twenty dollars (\$20.00) per analyte. The minimum and maximum fee per analyte group shall be as set out in

G.S. 130A-326(7). The analyte groups are as follows:

- (1) inorganic chemistry;
- (2) organic chemistry I (synthetic organic chemicals);
- (3) organic chemistry II (volatile organic chemicals);
- (4) total coliforms; and
- (5) radio chemistry.

The certification fee shall not be prorated nor refunded. Twenty percent shall be due at the time of the application.

Statutory Authority G.S. 130A-315; 130A-326.

**.0234 CRITERIA/PROCEDURES FOR
DECERTIFICATION, DENIAL, OR
DOWNGRADING**

(a) The Department of Environment, Health, and Natural Resources or its delegate may downgrade or deny laboratory certification if the laboratory:

- (1) Demonstrates incompetence or made consistent errors in analyses;
- (2) Failed to correctly analyze performance evaluation samples, including United States Environmental Protection Agency water study, double blind, blind, and on-site samples, or failed to report the results within the specified time;
- (3) Failed to report analytical results of performance evaluation samples or compliance samples or maintain records as required by this Section and the Rules Governing Public Water Supplies in 15A NCAC 18C .1500;
- (4) Failed to maintain facilities and equipment in accordance with the minimum requirements of this Section;
- (5) Failed to notify the certification evaluator of major changes such as personnel, equipment, or laboratory location; or
- (6) Violated or aided and abetted in the violation of any provisions of the rules of this Section.

(b) A downgraded laboratory with provisional certification may continue to perform analyses. The provisional status shall continue for at least six months. At the end of six months the laboratory certification shall be reinstated if the laboratory has made corrections and is in compliance with the minimum requirements for certification. If no corrections have been made the laboratory certification may be revoked.

(c) The Department of Environment, Health, and Natural Resources or its delegate may decertify or deny laboratory certification when a

laboratory or its employees have done any of the following:

- (1) Knowingly made false statements on any documents associated with certification;
 - (2) Falsified results of analyses;
 - (3) Submitted performance evaluation samples used for certification determination to another laboratory for analysis;
 - (4) Failed to employ approved laboratory methodology in the performance of the analyses required by 15A NCAC 18C .1500;
 - (5) Repeatedly failed to correctly analyze performance evaluation samples including United States EPA water study, double blind, blind, and on-site samples or report the results within the specified time;
 - (6) Repeatedly failed to report analytical results of performance evaluation samples or compliance samples or maintain records as required by this Section and the Rules Governing Public Water Supplies in 15A NCAC 18C;
 - (7) Failed to satisfy the certification evaluator that the laboratory has corrected deviations identified during the on-site visit within 30 days; or
 - (8) Violated or aided and abetted in the violation of any provisions of the rules of this Section.
- (d) The Department of Environment, Health, and Natural Resources or its delegate shall notify a laboratory of its intent to decertify, downgrade to provisional status or deny certification. The notice shall be in writing and include reasons for the decision and shall be delivered by certified mail.
- (e) This Rule shall not preclude informal conferences concerning a decision to decertify, downgrade to provisional status or deny certification.

Statutory Authority G.S. 130A-315.

.0235 RECERTIFICATION

(a) A laboratory is eligible for recertification six months after decertification, except in the following instances:

- (1) A laboratory which lost certification for false statements on documents, falsified analytical results, or submitted official performance samples to another laboratory, is eligible for recertification one year after decertification. Application for recertification shall be made in the same way as application for certification as contained in Rule .0233 of this Section;

- (2) A laboratory which lost certification for failure to correctly analyze performance evaluation samples is eligible for recertification after satisfying Rule .0243(b)(4) or .0251(4), or both of this Section.

(b) A laboratory for which certification was not renewed for failure to pay the certification fee by the date required in Rule .0233 of this Section is eligible for recertification 60 days after paying the overdue fee.

Statutory Authority G.S. 130A-315; 130A-326.

.0236 CERTIFICATION OF OUT-OF-STATE LABS

(a) An out-of-state laboratory shall meet all the following conditions to obtain North Carolina certification to perform analyses for compliance with 15A NCAC 18C .1500:

- (1) The laboratory shall be certified under a similar program administered by the state in which the facility is located or must be certified by the United States Environmental Protection Agency (EPA);
- (2) The laboratory shall provide this office with its EPA performance evaluation data within 30 days of the receipt of those data;
- (3) An initial on-site inspection shall be conducted by one or more laboratory certification evaluators at the requesting laboratory's expense. The Department shall not be required to conduct follow-up inspections more than once per year. Follow-up inspections shall be conducted at the requesting laboratory's expense;
- (4) The laboratory shall pay fees as prescribed in Rule .0233 of this Section; and
- (5) The laboratory shall notify the North Carolina Department of Environment, Health, and Natural Resources within 30 days of any changes in its certification status pursuant to the actions of another agency.

(b) The laboratory's failure to comply with any or all of the conditions in Paragraph (a) of this Rule will prevent the laboratory from obtaining certification in North Carolina or result in downgrading or decertification in North Carolina.

Statutory Authority G.S. 130A-315.

.0237 CONTRACT LABORATORIES

(a) A laboratory may sub-contract analytical work to another laboratory if the sub-contracting laboratory has been certified by the Department of Environment, Health, and Natural Resources as required in Rule .0231 of this Section.

(b) Any data generated through a sub-contract shall be reported on the report form of the laboratory that performed the sub-contracted analyses and shall be signed by the responsible person.

Statutory Authority G.S. 130A-315.

.0238 CHEMISTRY FACILITIES

The laboratory facilities shall be clean, be temperature and humidity controlled in the instrument areas to allow proper operation and have sufficient lighting at the bench top to perform the required procedures.

Statutory Authority G.S. 130A-315.

.0239 CHEMISTRY EQUIPMENT AND INSTRUMENTATION

The laboratory is required to have those instruments that are needed to perform the approved methods for which certification has been requested.

Statutory Authority G.S. 130A-315.

.0240 CHEMISTRY LABORATORY PRACTICES

The following chemistry laboratory practices shall apply:

(1) General:

(a) Chemicals and reagents. Analytical reagent grade (AR) chemicals or better grade shall be used for analyses. Individual analytical methods in the approved references may specify additional requirements for the reagents to be used.

(b) Laboratory safety. Where safety practices are included in an approved method, they shall be strictly followed.

(2) Inorganic Contaminants:

(a) Reagent water. The laboratory shall have a source of reagent water having a resistivity value of at least 0.5 megohms (less than 2.0 micromhos) at 25°C. Quality checks to meet these specifications shall be made at planned intervals of at least once per month.

(b) Glassware preparation. Glassware shall be washed in a warm detergent solution and thoroughly rinsed first with tap water and then with reagent water. This cleaning procedure is sufficient for general analytical needs, but the individual procedures shall be referred to for precautions to be taken against contamination of glassware.

(3) Organic Contaminants:

(a) Reagent water. Reagent water for organic analysis shall be free of interferences for the analytes being measured. Water shall be treated when necessary to eliminate interferences.

(b) Glassware preparation. Glassware and sample bottles shall be washed in a detergent solution and thoroughly rinsed first in tap water and then in reagent water. Glassware shall have a final organic solvent rinse or shall be baked at 400°C for 30 minutes and then dried or cooled in an area free of organic contamination. Glassware shall be covered with organic-free aluminum foil during storage. Bottles and cap liners, used for collection of samples for determination of volatile organic chemicals (VOCs) shall be dried at 105°C for one hour, sealed, and stored in an area free of volatile organics.

Statutory Authority G.S. 130A-315.

.0241 CHEMISTRY METHODOLOGY

Minimum equipment requirements and methodology for individual parameters of chemical analyses shall be in accordance with methods adopted in 15A NCAC 18C .1515, 15A NCAC 18C .1522, and 15A NCAC 18C .1513. A list of these methods may be obtained from the Division of Laboratory Services.

Statutory Authority G.S. 130A-315.

.0242 CHEMISTRY SAMPLE COLLECTION, HANDLING AND PRESERVATION

(a) A written sampling protocol with specific sampling instructions shall be available to sample collectors and available for inspection by the certification officer.

(b) The following handling and preservation requirements of samples shall apply:

(1) Rejection of samples. The laboratory shall reject any samples taken for compliance purposes that do not meet the criteria in Subparagraphs (b)(2) - (b)(5) of this Rule, and shall notify the system or individual requesting the analyses.

(2) Sample containers and preservation. The type of sample container and the required preservative for each inorganic and organic chemical contaminant shall meet the criteria of Tables IV-4 and IV-5 in the EPA "Manual for the Certification of Laboratories Analyzing Drinking Water", which is hereby adopted by reference pursuant to G.S. 150B-14(c).

- (3) Maximum holding times. Samples shall be analyzed within the maximum holding times listed in Tables IV-4 and IV-5 in the EPA "Manual for the Certification of Laboratories Analyzing Drinking Water", which is hereby adopted by reference pursuant to G.S. 150B-14(c).
- (4) Sample collection and transport. The laboratory shall accept only those samples which have been collected, identified and transferred to the laboratory in accordance with the rules of this Section and 15A NCAC 18C .1500.
- (5) Sample report form. The sample report form shall contain the location; date; and time of collection; collector's name; preservative added; and any other special remarks concerning the sample. Sample report forms shall be approved by the North Carolina Public Water Supply Section. Indelible ink shall be used to complete the form.

Statutory Authority G.S. 130A-315.

.0243 CHEMISTRY QUALITY ASSURANCE

(a) The following general requirements for chemistry quality assurance (QA) shall be met:

- (1) All quality control information shall be available for inspection by the certification officer;
- (2) A manual of analytical methods and the laboratory's QA plan shall be available to the analysts;
- (3) Class S weights or higher quality weights shall be available to make periodic checks on the accuracy of the balances. Checks shall be within range of the manufacturer's guidelines. A record of these checks shall be available for inspection. The specific checks and their frequency are to be as prescribed in the laboratory's QA plan or the laboratory's operations manual. These checks shall be performed at least once a month;
- (4) Color standards or their equivalent, such as built-in internal standards, shall be available to verify wavelength settings on spectrophotometers. These checks shall be within the manufacturer's tolerance limits. A record of the checks shall be available for inspection. The specific checks and their frequency shall be as prescribed in the laboratory's QA plan or the laboratory's operations manual. These checks shall be performed at least every six months.

(b) The laboratory shall analyze performance samples as follows:

- (1) United States Environmental Protection Agency performance evaluation samples shall be analyzed semi-annually. Results shall be within control limits established by EPA for each analyte for which the laboratory is or wishes to be certified.
- (2) Double blind samples shall be analyzed when submitted to a certified laboratory and results shall be within established control limits; these data shall be of equal weight to the EPA performance evaluation sample data and on-site quality control sample data in determining the laboratory's certification status.
- (3) On-site quality control samples shall be analyzed when presented to the laboratory by the certification evaluator and results shall be within established control limits. These data shall be of equal weight to the EPA performance evaluation sample data and the double blind sample data in determining the laboratory's certification status.
- (4) A performance level of 75 percent shall be maintained for each analyte for which a laboratory is or wishes to be certified. This 75 percent average shall be calculated from the ten most recent performance sample data points from the EPA water studies, double-blind, blind, and on-site samples.
- (5) Unacceptable performance on any of the samples in Paragraph (b) of this Rule shall be corrected and explained in writing within 30 days and submitted to the certification evaluator.

(c) The minimum daily quality control (QC) for chemistry shall be as follows:

- (1) Inorganic Contaminants:
 - (A) At the beginning of each day that samples are to be analyzed, a standard curve composed of at least a reagent blank and three standards covering the sample concentration range shall be prepared.
 - (B) The laboratory shall analyze a QC sample (EPA QC sample or equivalent) at the beginning of the sample run, at the end of the sample run, and every 20 samples, with recoveries not to exceed ± 10 percent of the true concentration. The source of this QC sample shall be different from the source used for the calibration standards in Paragraph (c)(1)(A) of this Rule.

(C) The laboratory shall run an additional standard or QC check at the laboratory's

lowest detectable limit for the particular analyte. The laboratory shall not report a value lower than the lowest standard or QC check analyzed.

- (D) The laboratory shall add a known spike to a minimum of 10 percent of the routine samples (except when the method specifies a different percentage, i.e. furnace methods) to determine if the entire analytical system is in control. The spike concentration shall not be substantially less than the background concentration of the sample selected for spiking. The spike recoveries shall not exceed ± 10 percent of the true value.
- (E) All compliance samples analyzed by graphite furnace shall be spiked to determine absence of matrix interferences with recoveries ± 10 percent of the true value of the spike concentration.
- (F) The laboratory shall run a duplicate sample every 10 samples with duplicate values within ± 10 percent of each other.
- (G) Precision and accuracy data may be computed from the analyses of check samples of known value used routinely in each analytical procedure. This data shall be available for inspection by the laboratory evaluator.
- (2) Organic Contaminants:
 - (A) Quality control specified in the approved methods referenced in Rule .0241 shall be followed.
 - (B) Analysis for regulated volatile organic chemicals under 15A NCAC 18C .1515 shall only be conducted by laboratories that have received conditional approval by EPA or the Department according to 40 C.F.R. 141.24(g)(10) and (11) which is hereby adopted by reference pursuant to G.S. 150B-14(c).
 - (C) Analysis for unregulated volatile organic chemicals under 15A NCAC 18C .1516 shall only be conducted by laboratories approved under Subparagraph (c)(2)(B) of this Rule. In addition to the requirements of Subparagraph (c)(2)(B) of this Rule, each laboratory analyzing for EDB and DBCP shall achieve a method detection limit for EDB and DBCP of 0.00002 mg/l, according to the procedures in Appendix B of 40 C.F.R. Part 136 which is hereby adopted by reference pursuant to G.S. 150B-14(c).

Statutory Authority G.S. 130A-315.

.0244 CHEMISTRY DATA

Records of chemical analyses shall be kept by the laboratory in accordance with the EPA "Manual for Certification of Laboratories Analyzing Drinking Water", Chapter 4, Section 8, Records and Data Reporting, which is hereby adopted by reference pursuant to G.S. 150B-14(c).

Statutory Authority G.S. 130A-315.

.0245 CHEMISTRY ACTION RESPONSE

All laboratory results exceeding maximum contaminant levels shall be reported to the Public Water Supply Section of the Division of Environmental Health within 48 hours. All other laboratory results shall be reported in accordance with the Public Water Supply rules in 15A NCAC 18C.

Statutory Authority G.S. 130A-315.

.0246 MICROBIOLOGY FACILITIES

Laboratory facilities shall be clean, temperature and humidity controlled, and have sufficient lighting at bench tops to perform the required procedures. The laboratory shall have provisions for disposal of microbiological waste.

Statutory Authority G.S. 130A-315.

.0247 MICROBIOLOGY EQUIPMENT, SUPPLIES AND ASSOCIATED QUALITY CONTROL

(a) A laboratory seeking certification for microbiological analyses of water shall have available, or have access to, the items required for the total coliform and fecal coliform procedures as listed in the EPA "Manual for the Certification of Laboratories Analyzing Drinking Water", Chapter 5, Section 3, Laboratory Equipment and Supplies which is hereby adopted by reference pursuant to G.S. 150B-14(c), except that Sections 3.2.2, 3.5.4 and 3.11.5 are not adopted by reference.

(b) In addition to the items and procedures adopted by reference in Paragraph (a) of this Rule the laboratory shall have available the items and follow the procedures listed in this Paragraph:

- (1) Balance. Calibrate the balance monthly using class S or S-1 reference weights.
- (2) Autoclave. The autoclave shall be checked at least weekly with a maximum registering thermometer. Heat sensitive tape or spore strips or ampules may be used during each autoclave cycle and results recorded.
- (3) Fecal Coliform Waterbath:

- (A) A temperature of $44.5^{\circ}\text{C} \pm 0.2^{\circ}\text{C}$ shall be maintained.
- (B) A thermometer graduated in 0.1°C increments shall be used to monitor temperature.
- (C) The water level shall be sufficient to reach the upper level of media in tubes.
- (D) On days used, record temperature at least twice per day with readings separated by at least four hours.

Statutory Authority G.S. 130A-315.

**.0248 MICROBIOLOGY GENERAL
LABORATORY PRACTICES**

(a) The general laboratory practices for microbiological analyses shall be in accordance with those listed in the EPA "Manual for the Certification of Laboratories Analyzing Drinking Water", Chapter 5, Section 4, General Laboratory Practices, which is hereby adopted by reference pursuant to G.S. 150B-14(c), except that Sections 4.6.1 through 4.9 are not adopted by reference.

(b) In addition, the following laboratory practices shall be followed:

- (1) Media - General Requirements. Check each lot of medium with positive and negative culture controls.
- (2) Membrane Filter Media:
 - (A) Use m-Endo broth or agar or LES Endo broth or agar in the single step or enrichment techniques. Ensure that ethanol used in rehydration procedure is not denatured. Prepare medium in a sterile flask and use a boiling water bath or, if constantly attended, a hot plate with a stir bar to bring medium to the boiling point. Do not boil medium. Final pH shall be 7.2 ± 0.2 .
 - (B) Refrigerate MF broth no longer than 96 hours, poured MF agar plates no longer than two weeks, and ampouled m-Endo broth in accordance with manufacturer's expiration date.
- (3) Multiple Tube Fermentation (MTF) Media:
 - (A) Use double strength lauryl sulfate broth or lactose broth in the presumptive test and single strength brilliant green lactose bile (BGLB) broth in the confirmed test. Autoclave media at 121°C for 12 minutes. Final pH shall be 6.8 ± 0.2 or 7.2 ± 0.2 for BGLB broth.
 - (B) If MTF media are refrigerated after sterilization, incubate overnight at $35^{\circ}\text{C} \pm 0.5^{\circ}\text{C}$ before use. Discard tubes showing growth or bubbles. Use MTF

media prepared in tubes with loose fitting closures within one week. Store broth media in screw cap tubes or bottles no longer than three months, provided media are stored in the dark. Discard media if evaporation exceeds 10 percent of original volume.

- (C) LES Endo agar shall be used for the completed test. Refrigerate autoclaved medium and use within two weeks.
- (4) Clark's Total Coliform Medium:
 - (A) Autoclave for 12 minutes at 121°C . Allow space between bottles.
 - (B) Final pH shall be 6.8 ± 0.2 .
 - (C) Store prepared medium in screw capped culture bottle no longer than three months; discard if evaporation exceeds 10 percent of original volume.
- (5) EC Medium (for fecal coliforms):
 - (A) Autoclave for 12 minutes at 121°C .
 - (B) Examine tubes after sterilization to insure that inverted inner tubes are free of air bubbles and that the vials are at least partially covered with medium.
 - (C) Incubate refrigerated sterilized medium overnight at $35^{\circ}\text{C} \pm 0.5^{\circ}\text{C}$; discard tubes that show growth or bubbles.
 - (D) Store prepared medium in screw cap tubes.
 - (E) Final pH shall be 6.9 ± 0.2 .
- (6) EC + MUG Medium (for detection of fecal coliforms-*E. coli*):
 - (A) Autoclave medium at 121°C (gas tubes shall not be used).
 - (B) Final pH shall be 6.9 ± 0.2 .
 - (C) Store prepared medium in screw cap tubes no longer than three months.
- (7) MMO-MUG Test Medium (for Total Coliform and *E. Coli*):
 - (A) The laboratory shall not prepare this medium from basic ingredients.
 - (B) Each lot purchased shall be tested for performance by inoculation with three control bacteria: *Escherichia coli*, a total coliform other than *E. coli* (e.g., *Klebsiella pneumoniae*) and a non-coliform (e.g., *Pseudomonas aeruginosa*). These control organisms can be stock cultures or commercially available discs impregnated with the organism. Incubate these controls at $35^{\circ}\text{C} \pm 0.5^{\circ}\text{C}$ for 24 hours, and read and record result.
 - (C) Do not autoclave.
- (8) Fecal Coliform Membrane Filter Medium (for enumeration of fecal coliform in source water):
 - (A) Rehydrate medium in reagent water containing 10 ml of 1 percent rosolic acid

in 2N NaOH. Bring it to the boiling point; do not autoclave.

(B) Autoclave for 12 minutes at 121°C.

(C) Final pH shall be 7.4 ± 0.2 .

(D) Refrigerate unused prepared medium; discard after 96 hours.

(9) Heterotrophic Plate Count (HPC) Medium:

(A) Autoclave HPC agar at 121°C for 15 minutes.

(B) Final pH shall be 7.0 ± 0.2 .

(C) Temper melted agar at 44°-46°C before pouring.

(D) Hold melted agar no longer than four hours. Do not melt sterile agar medium more than once.

Statutory Authority G.S. 130A-315.

.0249 MICROBIOLOGY METHODOLOGY

(a) Minimum equipment requirements and methodology for microbiological analyses shall be in accordance with the methods adopted in 40 CFR 141.21(f) which is hereby adopted by reference pursuant to G.S. 150B-14(c), except that Nutrient Agar plus MUG in 40 CFR 141.21(f)(6)(11) is not adopted by reference.

(b) For total coliform analysis the laboratory shall maintain certification for one or more of the approved methods as specified in this Paragraph:

(1) The Membrane Filter Procedure (MF) may be used for drinking water when the sample is free from interference (e.g., turbidity and particulates). A laboratory must be approved for a second analytical procedure when MF is used.

(2) The Multiple Tube Fermentation (MTF) procedure may be used for analyzing drinking water that contains particulates or other interfering substances and may be used as the back up or the sole approved method.

(3) The MMO-MUG (Colilert) procedure may be used for analyzing drinking water that contains particulates. A laboratory must be approved for a second analytical procedure when MMO-MUG is used.

(c) A laboratory shall maintain certification for one of the approved methods for fecal coliform analysis.

(d) For all procedures in Paragraph (a) of this Rule incubate inoculated culture within 30 minutes of inoculation.

Statutory Authority G.S. 130A-315.

.0250 MICROBIOLOGY SAMPLE, COLLECTION, HANDLING

AND PRESERVATION

(a) For sample collecting, handling, and preservation, there shall be strict adherence to correct sampling procedures, complete identification of the sample, and prompt transfer of the sample to the laboratory as described in "Standard Methods for the Examination of Water and Wastewater", American Water Works Association, Part 9060, which is adopted by reference in accordance with G.S. 150B-14(c).

(b) Minimum sample frequency and sample location shall be that specified in 15A NCAC 18C .1534.

(c) The collector shall be trained in sampling procedures or written instructions shall be provided by the laboratory.

(d) The water shall be sampled after maintaining a steady flow for two or three minutes to clear service line. The tap shall be free of aerator, strainer, hose attachment, or water purification devices.

(e) The sample volume shall be a minimum of 100 ml. The sample bottle must be filled only to the shoulder to provide space for mixing.

(f) The sample report form shall be completed immediately after collection with location, date and time of collection, chlorine residual, collector's name, and remarks. The report form shall be approved by the North Carolina Public Water Supply Section.

(g) Date and time of sample arrival shall be added to the sample report form when the sample is received in the laboratory.

(h) Samples shall be received and analyzed within 48 hours of time of collection. Samples that are not analyzed within 48 hours must be rejected and a new sample must be collected.

Statutory Authority G.S. 130A-315.

.0251 MICROBIOLOGY QUALITY ASSURANCE

Requirements for quality assurance are as follows:

(1) A written quality assurance (QA) plan shall be available for review.

(2) Records on analytical quality control tests on media and equipment shall be prepared and retained for three years.

(3) A performance level of 75 percent shall be maintained for each method for which a laboratory is, or wishes to be certified. This 75 percent average shall be calculated from the 10 most recent performance sample data points from water performance studies, double blind, blind and on-site samples.

(4) For other quality control requirements refer to Rules .0247 and .0248 of this Section.

Statutory Authority G.S. 130A-315.

.0252 MICROBIOLOGY DATA

(a) Where the laboratory has the responsibility for microbiological sample collections, the sample collector shall complete a sample report form immediately after each sample is taken. The information on the form includes sample identification number, sample collector's name, time and date of collection, arrival time and date in the laboratory and other information as required.

(b) Results of microbiological analyses shall be calculated and entered on the sample report form to be forwarded to Public Water Supply Section of the Division of Environmental Health. A careful check shall be made to verify that each result was entered correctly from the bench sheet and initialed by the analyst.

(c) A copy of the microbiological sample report form shall be retained by the laboratory for three years. If results are entered into a computer storage system, a printout of the data shall be returned to the laboratory for verification with bench sheets.

Statutory Authority G.S. 130A-315.

.0253 MICROBIOLOGY ACTION RESPONSE

All laboratory results exceeding maximum contaminant levels shall be reported to the Public Water Supply Section of the Division of Environmental Health within 48 hours. All other laboratory results shall be reported in accordance with the Public Water Supply rules in 15A NCAC 18C.

Statutory Authority G.S. 130A-315.

.0254 RADIOCHEMISTRY FACILITIES

A laboratory seeking certification for performance of radiochemical analyses of public water supplies shall meet the following requirements:

(1) The counting instrument(s) required for measurement of those radionuclides described in 15A NCAC 18C .1500 shall be located in a separate room from rooms in which samples and standards are being prepared or other types of chemical analyses are being performed. The temperature of this room shall not exceed 27°C. Temperature variation under normal operating conditions shall not exceed 3°C.

(2) All instruments shall be properly grounded, and a regulated power supply, either external or internal, shall be available to each instrument.

(3) In areas where radioactive standards are being prepared, care shall be taken to minimize contamination of surfaces and personnel. Bench surfaces shall be an impervious material covered with absorbent paper, or trays (stainless steel, plastic, or fiberglass) lined with absorbent paper.

(4) Laboratory space shall be 200 square feet per person and shall contain no less than 6 linear feet of bench space per analyst and include the following:

- (a) sink with hot and cold running water;
- (b) electrical outlets (120 V a.c. grounded);
- (c) source of distilled or deionized water;
- (d) gas supply (natural gas or liquefied petroleum); a propane cylinder with proper attachments may be permitted in laboratories doing limited amounts of analytical work;
- (e) vacuum line, pump, or aspirator; and
- (f) exhaust hood.

Statutory Authority G.S. 130A-315.

.0255 RADIOCHEMISTRY EQUIPMENT

(a) The only instruments required shall be those needed to perform the specific radiochemical analyses for which the laboratory is being certified. Those instruments shall meet the specifications as listed in the EPA "Manual for the Certification of Laboratories Analyzing Drinking Water", Chapter 6, Section 3, Laboratory Equipment and Supplies, which is hereby adopted by reference pursuant to G.S. 150B-14(c).

(b) In addition, the laboratory shall have the following instruments if they are required for the radiochemical analyses:

- (1) Conductivity meter. Readable in ohms or mhos, with a range of 2 to 2.5 million ohms or equivalent mhos \pm 1 percent, and a sensitivity of 0.33 percent or better. Meter may be either line/bench or battery/portable.
- (2) Fluorometer. Capable of detecting 0.0005 ug of uranium.

Statutory Authority G.S. 130A-315.

**.0256 RADIOCHEMISTRY GENERAL
LABORATORY PRACTICES**

A laboratory seeking certification for performing radiochemical analyses shall meet the following requirements:

- (1) Glassware preparations. All glassware shall be washed in a warm detergent solution and thoroughly rinsed in tap water. A distilled water rinse shall follow the tap water rinse.

Further cleaning is not required unless specific analytical methods dictate the need for more elaborate procedures for ensuring cleanliness of glassware, those procedures shall be followed.

- (2) Water quality. All water used in preparation of reagents, standards, and samples shall have resistance values greater than 0.5 megohms (less than 2.0 micromhos) cm at 25°C.
- (3) Chemicals and reagents. Analytical reagent grade (AR) chemicals shall be used for most analyses.
- (4) Storage of radioactive standards and radioactive wastes. There shall be an enclosed and properly labeled area, either within the analytical laboratory or in a separate room, for the safe storage (in suitable containers) of standards, samples, and radioactive wastes.
- (5) Standards and sample preparation. There shall be a designated area within the laboratory for preparation of radioactive standards and samples. Precautions shall be taken in this area to ensure against radioactive contamination. Provisions shall be made for safe storage and disposal of radioactive wastes and for monitoring of the work area.

Statutory Authority G.S. 130A-315.

.0257 RADIOCHEMISTRY METHODS

Minimum requirements and methods for radiochemical analyses shall be made in accordance with methods adopted in 15A NCAC 18C .1522 and may be obtained from the Department of Environment, Health, and Natural Resources, Division of Laboratory Services, 306 North Wilmington Street, Raleigh, North Carolina.

Statutory Authority G.S. 130A-315.

.0258 RADIOCHEMISTRY SAMPLE COLLECTION, HANDLING, AND PRESERVATION

(a) Minimum requirements of sample handling for radiochemical analyses including sample container, preservation, and major instrumentation shall meet the criteria in Table VI-1 in the EPA "Manual for the Certification of Laboratories Analyzing Drinking Water", which is hereby adopted by reference pursuant to G.S. 150B-14(c).

(b) Samples shall be collected in containers provided by the laboratory.

(c) If composited samples are to be analyzed, the compositing shall be performed in the laboratory.

(d) Sample report form. The sample report form shall contain the location; date and time of collection; collector's name; preservative added; and any other special remarks concerning the sample. Sample report forms shall be approved by the N.C. Public Water Supply Section. Indelible ink shall be used to complete the form.

Statutory Authority G.S. 130A-315.

.0259 RADIOCHEMISTRY QUALITY CONTROL

Requirements for quality control of radiochemical analyses shall be as follows:

- (1) Quality control data and records shall be available for inspection.
- (2) The laboratory shall participate at least twice each year in those EPA laboratory intercomparison studies that include each of the analyses for which the laboratory is, or wants to be, certified. Analytical results shall be within control limits described in "Environmental Radioactivity Laboratory Intercomparison Studies Program-FY-1977" (EPA-600/4-77-001), which is hereby adopted by reference in accordance with G.S. 150B-14(c).
- (3) The laboratory shall participate once each year in an appropriate unknown performance study administered by EPA. Analytical results shall be within control limits established by EPA for each analysis for which the laboratory is, or wants to be, certified.
- (4) Operating manuals and calibration protocols for counting instruments shall be available to analysts and technicians.
- (5) Calibration data and maintenance records on all radiation instruments and analytical balances shall be maintained in a permanent record.
- (6) The following specifications shall be included in minimum daily quality control:
 - (a) To verify internal laboratory precision for a specific analysis, a minimum of 10 percent duplicate analyses shall be performed. The difference between duplicate measurements shall be less than two times the standard deviation of the specific analysis as described in EPA-600/4-77-001. If the difference exceeds two standard deviations, calculations and procedures shall be examined, and samples shall be reanalyzed.
 - (b) When 20 or more specific analyses are performed each day, a performance standard and a background sample shall be measured with each 20 samples. If less than 20 specific analyses are performed in

PROPOSED RULES

any one day, a performance standard and a background sample shall be measured along with the samples.

- (c) Quality control performance charts, or performance records, shall be available for inspection.

Statutory Authority G.S. 130A-315.

.0260 RADIOCHEMISTRY DATA

Records and data reporting shall be maintained in accordance with the EPA "Manual for the Certification of Laboratories Analyzing Drinking Water", Chapter 6, Section 8.2-8.3.6, which is hereby adopted by reference pursuant to G.S. 150B-14(c).

Statutory Authority G.S. 130A-315.

.0261 RADIOCHEMISTRY ACTION RESPONSE

All laboratory results exceeding maximum contaminant levels shall be reported to the Public Water Supply Section of the Division of Environmental Health within 48 hours. All other laboratory results shall be reported in accordance with the Public Water Supply rules in 15A NCAC 18C.

Statutory Authority G.S. 130A-315.

CHAPTER 21 - HEALTH: PERSONAL HEALTH

SUBCHAPTER 21A - WOMEN'S PREVENTIVE HEALTH

SECTION .0100 - GENERAL POLICIES

.0107 SUBMISSION OF REQUIRED REPORTS

(a) Local providers funded by the branch shall submit patient ~~master records, patient visit records, and shipment control and supplemental service sheets~~ data and service statistics in accordance with Health Services Information System requirements.

(b) Local providers shall report on selected statistics on clinical effectiveness as sampled by the branch. All required reports and submission dates are listed on the reverse side of the local health department budget page.

(c) Local providers shall participate in the cost and time study conducted by the Department.

Statutory Authority G.S. 130A-124.

CHAPTER 25 - LOCAL STANDARDS

SECTION .0200 - STANDARDS FOR LOCAL HEALTH DEPARTMENTS

.0213 FOOD, LODGING/INST SANITATION/PUBLIC SWIMMING POOLS/SPAS

(a) A local health department shall provide food, lodging, and institutional sanitation and public swimming pools and spas services within the jurisdiction of the local health department. A local health department shall establish, implement, and maintain written policies which shall include:

- (1) The frequency of inspections of food, lodging, and institutional facilities and public swimming pools and spas with the following being the minimum:

<u>Type of Establishment</u>	<u>Frequency</u>
Bed and breakfast homes	1/year
Child day-care facilities	1 2/year
Institutions	2/year
Local confinement facilities	1/year
Lodging	1/year
Meat markets	4/year
Meat markets or summer camps which are closed for a period of 60 days or more	1/3 months of operation (or part thereof)
Migrant housing <u>water and sewage evaluation</u>	2 1/year
Mobile food units	4/year
Private boarding schools and colleges	1/year
<u>Public swimming pools and spas</u>	<u>1/operational season</u>
Pushearts	4/year
Residential care facilities	1/year
Restaurants	1/quarter
Schools	1/year

PROPOSED RULES

Summer camps
Vending machine locations

1/year
Representative
number of
locations/year

For the purpose of restaurant inspections, a food sampling inspection shall fulfill the requirement of an inspection provided a minimum of three distinct samples are taken from the restaurant. A maximum of one food sampling inspection per restaurant, per year, may be used to meet the quarterly inspection requirement for restaurants.

Statutory Authority G.S. 130A-9.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS

Notice is hereby given in accordance with G.S. 150B-12 that the Board of Medical Examiners of the State of North Carolina intends to amend rule(s) cited as 21 NCAC 32F .0003.

The proposed effective date of this action is November 1, 1991.

The public hearing will be conducted at 12:00 p.m. on August 2, 1991 at the NC Board of Medical Examiners, 1313 Navaho Drive, Raleigh, N.C. 27609.

Comment Procedures: Persons interested may present written or oral statements relevant to the actions proposed at a hearing to be held as indicated above. Written statements not presented at the hearing should be directed to the following address: Administrative Procedures, NC Board of Medical Examiners, P.O. Box 26808, Raleigh, NC 27611-6808.

CHAPTER 32 - BOARD OF MEDICAL EXAMINERS

SUBCHAPTER 32F - BIENNIAL REGISTRATION

.0003 FEE

Each physician shall pay a biennial registration fee of ~~seventy dollars (\$70.00)~~ one hundred dollars (\$100.00) to the Board; except, each physician holding a resident's training license shall pay a biennial registration fee of twenty-five dollars (\$25.00).

Statutory Authority G.S. 90-15.1.

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Notice is hereby given in accordance with G.S. 150B-12 that the North Carolina Board of Physical Therapy Examiners intends to amend rule(s) cited as 21 NCAC 48A .0005; 48B .0002; 48D .0005; 48E .0110.

The proposed effective date of this action is November 1, 1991.

The public hearing will be conducted at 2:00 p.m. on August 1, 1991 at 900 Ridgefield Drive, Suite 250, Raleigh, NC 27609.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from July 1, 1991, to 5:00 p.m. on July 31, 1991. Such written comments must be delivered or mailed to Constance Peake, N.C. Board of Physical Therapy Examiners, 2426 Tryon Road, Durham, NC 27705.

CHAPTER 48 - BOARD OF PHYSICAL THERAPY EXAMINERS

SUBCHAPTER 48A - ORGANIZATION

.0005 DEFINITIONS

The following definitions and the definitions in G.S. 90-270.24 will apply throughout Chapter 48:

- (1) ~~"Education programs"~~ "Educational programs" means accredited physical therapy programs and accredited physical therapist assistant programs.

Statutory Authority G.S. 90-270.24; 90-270.26; 90-270.31.

SUBCHAPTER 48B - TYPES OF LICENSES

.0002 LICENSES BY ENDORSEMENT

(a) Endorsement. Each application for endorsement will be considered on an individual basis.

PROPOSED RULES

(b) Examination Required. Only those persons initially licensed in another state by virtue of examination will be considered for endorsement. Only the following examinations will be considered:

(1) For Physical Therapists:

(A) Therapists licensed on the basis of a PT exam must present total scores that meet the North Carolina passing level. If adequate scores and information are not available from the other state, the Board may ask the applicant to have his scores issued through the appropriate testing service. If the total score on ~~any part of~~ the examination is unsatisfactory, the exam must be repeated. The cost of the examination will be paid by the applicant.

Statutory Authority G.S. 90-270.26;
90-270.31(b); 90-270.33.

SUBCHAPTER 48D - EXAMINATIONS

.0005 EXAMINATION SCORES

(a) Passing Level. The passing level for the PT exam and the PTA exam shall be 1.5 standard deviations below the national average for the raw score of the examination. ~~All individual parts and the total score must meet the passing level for a person to pass the examination.~~

~~(b) Failure of Examination:~~

~~(1) An examinee may be failed on either part score or total score. If the required minimum score of any part is failed, but the total score is passed, only the part which is failed must be repeated. Even if all parts have been passed at one time or another, a passing total score on the entire examination must be received at one sitting.~~

~~(b) (e)~~ Transfer of Scores. Scores will be released as follows:

- (1) To an individual who took the examination in North Carolina at his request and with no charge;
- (2) To licensing Boards in other states upon the request of the individual and the payment of the fee; licensure information may be included with the score release;
- (3) To other persons or institutions upon the request of the individual.

~~(c) (d)~~ Scores Related to Passing Level. Scores released to the individual will include the North Carolina passing level for the examination.

Statutory Authority G.S. 90-270.26; 90-270.33.

SUBCHAPTER 48E - APPLICATION FOR LICENSURE

SECTION .0100 - REQUIREMENTS

.0110 FOREIGN-TRAINED PHYSICAL THERAPISTS

(b) Supporting Documents. In addition to the other requirements of this Section and G.S. 90-270.30, each foreign-trained applicant must submit the following:

- (1) If the applicant has been graduated from a physical therapy educational program, a certification of physical therapy education is to be submitted directly to the Board.
- (2) If the applicant does not meet the requirements of (b)(1) of this Rule, the Board will examine the applicant's educational background to determine if the general college and professional instruction is substantially equivalent to that of a United States physical therapy ~~education~~ educational program. At a minimum, 120 semester hours of college education is required, which includes a minimum of 57 semester hours of professional curriculum, including basic health sciences, clinical sciences and clinical education. It is the responsibility of the applicant to make arrangements with a credentialing service acceptable to the Board to have the credentials evaluated. The Board will make its own review of applicant's educational program and is not bound by the findings of the credentialing service.

Statutory Authority G.S. 90-270.26; 90-270.29;
90-270.30; 90-270.31.

TITLE 25 - OFFICE OF STATE PERSONNEL

Notice is hereby given in accordance with G.S. 150B-12 that the Office of State Personnel/State Personnel Commission intends to amend rule(s) cited as 25 NCAC 1B .0432; 1C .0405, .0407; and repeal rule(s) cited as 25 NCAC 1K .0701 - .0708.

The proposed effective date of this action is November 1, 1991.

The public hearing will be conducted at 9:00 a.m. on August 7, 1991 at the Personnel Development Center, 101 W. Peace Street, Raleigh, North Carolina.

Comment Procedures: Interested persons may present statements either orally or in writing at the Public Hearing or in writing prior to the hearing by mail addressed to Drake Maynard, Office of State Personnel, 116 W. Jones Street, Raleigh, North Carolina 27603.

CHAPTER I - OFFICE OF STATE PERSONNEL

SUBCHAPTER IB - STATE PERSONNEL
COMMISSION

SECTION .0400 - APPEAL TO COMMISSION

.0432 REMEDIES FOR PROCEDURAL
VIOLATIONS

(b) Failure to give specific reasons for dismissal, demotion or suspension without pay shall be deemed a procedural violation. The Personnel Commission, in its discretion, may award back pay, ~~and attorney's fees, or both~~ for such a violation. ~~or, it may determine that the violation is so severe that it rises to the level to constitute lack of substantive just cause; such a determination shall require reinstatement, back pay and attorney's fees as remedies.~~ Back pay or attorney's fees, or both, may be awarded for such a period of time as the Commission determines, in its discretion, to be appropriate under all the circumstances.

Statutory Authority G.S. 126-4(9); 126-35; 126-37; 126-38.

SUBCHAPTER IC - PERSONNEL
ADMINISTRATION

SECTION .0400 - APPOINTMENT

.0405 TEMPORARY APPOINTMENT

A temporary appointment is an appointment for a limited term, normally not to exceed three to six months, to a permanent or temporary position. When sufficiently justified, a longer period of time may be requested; but in no case

shall the temporary employment period exceed 12 consecutive months. (If retired employees sign a statement that they are not available for nor seek permanent employment, they may have temporary appointments for more than 12 months).

Statutory Authority G.S. 126-4.5.

.0407 TEMPORARY PART-TIME
APPOINTMENT

A temporary part-time appointment is an appointment of less than full-time for a limited term normally not to exceed three to six months. When sufficiently justified, a longer period of time may be requested; but in no case shall the temporary employment period exceed 12 consecutive months. (Exception: If retired employees sign a statement that they are not available for nor seek permanent employment, they may have temporary part-time appointments for more than 12 months.)

Statutory Authority G.S. 126-4.

SUBCHAPTER IK - PERSONNEL TRAINING

SECTION .0700 - PUBLIC MANAGER
PROGRAM

.0701 PROGRAM ADMINISTRATION
(REPEALED)

.0702 PURPOSE (REPEALED)

.0703 PROGRAM ACCREDITATION
(REPEALED)

.0704 PROGRAM CURRICULUM (REPEALED)

.0705 PROGRAM PARTICIPATION
(REPEALED)

.0706 CERTIFICATE OF COMPLETION
(REPEALED)

.0707 PRINCIPLES RELEVANT TO
CURRICULUM DESIGN (REPEALED)

.0708 FUNDING FOR PROGRAM (REPEALED)

Statutory Authority G.S. 126-4.

ARRC OBJECTIONS

The Administrative Rules Review Commission (ARRC) objected to the following rules in accordance with G.S. 143B-30.2(c). State agencies are required to respond to ARRC as provided in G.S. 143B-30.2(d).

ADMINISTRATION

Auxiliary Services

1 NCAC 4G .0212 - Telefax and Telegraph Proposals
Agency Revised Rule

ARRC Objection 5/16/91
Obj. Removed 5/16/91

AGRICULTURE

Plant Industry

2 NCAC 48F .0306 - Collection and Sale of Venus Flytrap
Agency Revised Rule

ARRC Objection 4/18/91
Obj. Removed 4/18/91

ECONOMIC AND COMMUNITY DEVELOPMENT

Banking Commission

4 NCAC 3G .0203 - Expiration and Renewal
Agency Revised Rule

ARRC Objection 3/21/91
Obj. Removed 4/18/91

4 NCAC 3G .0502 - Annual Report
Agency Revised Rule

ARRC Objection 3/21/91
Obj. Removed 4/18/91

4 NCAC 3G .0601 - Revocation or Suspension; Hearings
Agency Revised Rule

ARRC Objection 3/21/91
Obj. Removed 4/18/91

Hazardous Waste Management Commission

4 NCAC 18 .0309 - Final Site
Agency Returned Rule Unchanged

ARRC Objection 1/18/91
No Action 2/25/91

Agency Revised Rule

ARRC Objection 4/18/91
Obj. Removed 5/16/91

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Adult Health

15A NCAC 16A .0804 - Financial Eligibility
No Response from Agency
Agency Responded

ARRC Objection 1/18/91
2/25/91

No Response from Agency

No Action 3/21/91

No Action 4/18/91

15A NCAC 16A .0806 - Billing the HIV Health Services Program
No Response from Agency
Agency Responded

ARRC Objection 1/18/91
2/25/91

No Response from Agency

No Action 3/21/91
No Action 4/18/91

Coastal Management

15A NCAC 7J .0409 - Civil Penalties
Agency Returned Rule Unchanged
Rule Returned to Agency

ARRC Objection 1/18/91
No Action 2/25/91
No Action 4/18/91

ARRC OBJECTIONS

<i>Agency Filed Rule with OAH</i>	<i>Rule Eff.</i>	<i>6/1/91</i>
Environmental Health		
<i>15A NCAC 18A .2537 - Appeals</i>	<i>ARRC Objection</i>	<i>3/21/91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>4/18/91</i>
<i>Agency Withdrew Rule</i>		<i>5/16/91</i>
<i>15A NCAC 18A .2616 - Requirements for Employees</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>5/16/91</i>
<i>15A NCAC 18A .2618 - Cleaning of Equipment and Utensils</i>	<i>ARRC Objection</i>	<i>3/21/91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>5/16/91</i>
<i>15A NCAC 18A .2711 - Toilet Facilities</i>	<i>ARRC Objection</i>	<i>3/21/91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>5/16/91</i>

HUMAN RESOURCES

Facility Services

<i>10 NCAC 3C .0914 - Defs Applicable Psychiatric/Substance Abuse Svcs</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 3J .2401 - Requirement for Operations Manual</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 3T .0102 - Definitions</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 3T .0603 - Home Health Aide Services</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 3T .1101 - Administration</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 3T .1112 - Design and Construction</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 3T .1114 - Plumbing</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 3T .1206 - Hospice Inpatient Fire and Safety Requirements</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>

Individual and Family Support

<i>10 NCAC 42B .1201 - Personnel Requirements</i>	<i>ARRC Objection</i>	<i>1/18/91</i>
<i>No Response from Agency</i>		<i>2/25/91</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>3/21/91</i>
<i>10 NCAC 42C .2001 - Qualifications of Administrator</i>	<i>ARRC Objection</i>	<i>1/18/91</i>
<i>No Response from Agency</i>		<i>2/25/91</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>3/21/91</i>
<i>10 NCAC 42C .2002 - Qualifications of Supervisor-in-Charge</i>	<i>ARRC Objection</i>	<i>1/18/91</i>
<i>No Response from Agency</i>		<i>2/25/91</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>3/21/91</i>
<i>10 NCAC 42C .2006 - Qualifications of Activities Coordinator</i>	<i>ARRC Objection</i>	<i>1/18/91</i>
<i>No Response from Agency</i>		<i>2/25/91</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>3/21/91</i>
<i>10 NCAC 42C .3301 - Existing Building</i>	<i>ARRC Objection</i>	<i>11/14/90</i>
<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>12/20/90</i>
<i>Agency Filed Rule with OAH</i>	<i>Rule Eff.</i>	<i>5/01/91</i>
<i>10 NCAC 42D .1401 - Qualifications of Administrator, Co-Administrator</i>	<i>ARRC Objection</i>	<i>11/14/90</i>

ARRC OBJECTIONS

<i>Agency Returned Rule Unchanged</i>	<i>No Action</i>	<i>12/20/90</i>
<i>Agency Filed Rule with OAH</i>	<i>Rule Eff.</i>	<i>5/01/91</i>

Social Services

<i>10 NCAC 24A .0303 - Sel/County Board Members/Social Svcs Comm</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>10 NCAC 39D .0202 - Conciliation Procedure</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 39D .0408 - Participation Expenses</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 39D .0409 - One-Time Work Related Expenses</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>10 NCAC 39D .0411 - Supportive Svcs//Available in Non-JOBs Counties</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>

JUSTICE

NC Criminal Justice Education

<i>12 NCAC 9B .0301 - Certification of Instructors</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>5/16/91</i>
<i>12 NCAC 9B .0302 - General Instructor Certification</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>

LABOR

Migrant Housing

<i>13 NCAC 16 .0201 - Conduct of Preoccupancy Inspections</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>13 NCAC 16 .0301 - Provisional Occupancy</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>13 NCAC 16 .0302 - Provisional Occupancy Denied</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>
<i>13 NCAC 16 .0303 - Inspection of Provisionally Occupied Housing</i>	<i>ARRC Objection</i>	<i>4/18/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>

LICENSING BOARDS AND COMMISSIONS

Auctioneer's Commission

<i>21 NCAC 4B .0602 - Advertising</i>	<i>ARRC Objection</i>	<i>3/21/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>

Cosmetic Art Examiners

<i>21 NCAC 14F .0010 - Sanitary Rules</i>	<i>ARRC Objection</i>	<i>5/16/91</i>
<i>21 NCAC 14G .0017 - Changes in Teaching Staff</i>	<i>ARRC Objection</i>	<i>5/16/91</i>
<i>21 NCAC 14I .0302 - Library</i>	<i>ARRC Objection</i>	<i>2/25/91</i>
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<i>21 NCAC 14I .0304 - Classroom Work</i>	<i>ARRC Objection</i>	<i>5/16/91</i>
<i>21 NCAC 14L .0210 - Effect on Student-Teacher Ratio</i>	<i>ARRC Objection</i>	<i>2/25/91</i>
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<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>

ARRC OBJECTIONS

Dental Examiners

<i>21 NCAC 16C .0310 - Reexamination</i>	<i>ARRC Objection</i>	<i>3/21/91</i>
<i>Agency Withdrew Rule</i>		<i>4/18/91</i>
<i>21 NCAC 16D .0101 - Eligibility Requirements</i>	<i>ARRC Objection</i>	<i>3/21/91</i>
<i>Agency Revised Rule</i>	<i>Obj. Removed</i>	<i>4/18/91</i>

Medical Examiners

<i>21 NCAC 32B .0309 - Personal Interview</i>	<i>ARRC Objection</i>	<i>2/25/91</i>
<i>Agency Responded</i>	<i>No Action</i>	<i>3/21/91</i>
<i>Rule Returned to Agency</i>		<i>5/16/91</i>

Mortuary Science

<i>21 NCAC 34C .0102 - Applicability of Statutes</i>	<i>ARRC Objection</i>	<i>5/16/91</i>
<i>Agency Withdrew Rule</i>		<i>5/16/91</i>

STATE PERSONNEL

<i>25 NCAC 1D .0509 - Severance Salary Continuation</i>	<i>ARRC Objection</i>	<i>1/18/91</i>
<i>Agency's Response Unacceptable</i>		<i>2/25/91</i>
<i>Rule Returned to Agency</i>		<i>4/18/91</i>

This Section of the Register lists the recent decisions issued by the North Carolina Supreme Court, Court of Appeals, Superior Court (when available), and the Office of Administrative Hearings which invalidate a rule in the North Carolina Administrative Code.

10 NCAC 26I .0101 - PURPOSE: SCOPE/NOTICE OF CHANGE IN LEVEL OF CARE

10 NCAC 26I .0102 - REQUESTS FOR RECONSIDERATION AND RECIPIENT APPEALS

10 NCAC 26I .0104 - FORMAL APPEALS

Thomas R. West, Administrative Law Judge with the Office of Administrative Hearings, declared Rules 10 NCAC 26I .0101, 10 NCAC 26I .0102 and 10 NCAC 26I .0104 void as applied in *Linda Allred, Petitioner v. North Carolina Department of Human Resources, Division of Medical Assistance, Respondent* (90 DHR 0940).

10 NCAC 42W .0003(c) - COUNTY DEPT OF SOCIAL SERVICES RESPONSIBILITIES

10 NCAC 42W .0005 - REPORTING CASES OF RAPE AND INCEST

The North Carolina Court of Appeals, per Judge Robert F. Orr, declared Rules 10 NCAC 42W .0003(c) and 10 NCAC 42W .0005 void as applied in *Rankin Whittington, Daniel C. Hudgins, Dr. Takey Crist, Dr. Gwendolyn Boyd and Planned Parenthood of Greater Charlotte, Inc., Plaintiffs v. The North Carolina Department of Human Resources, David Flaherty, in his capacity as Secretary of the North Carolina Department of Human Resources, The North Carolina Social Services Commission, and C. Barry McCarty, in his capacity as Chairperson of the North Carolina Social Services Commission, Defendants* [100 N.C. App. 603, 398 S.E.2d 40 (1990)].

16 NCAC 6D .0105 - USE OF SCHOOL DAY

The North Carolina Supreme Court, per Associate Justice Henry E. Frye, held invalid Rule 16 NCAC 6D .0105 as decided in *The State of North Carolina; The North Carolina State Board of Education; and Bob Etheridge, State Superintendent of Public Instruction, Plaintiffs v. Whittle Communications and The Thomasville City Board of Education, Defendant-Counterclaimants and The Davidson County Board of Education, Defendant-Intervenor and Counterclaimant v. The State of North Carolina; The North Carolina State Board of Education; and Bob Etheridge, State Superintendent of Public Instruction; and Howard S. Haworth; Barbara M. Tapscott; Kenneth R. Harris; Teena Smith Little; W.C. Meekins Jr.; Mary B. Morgan; Patricia H. Neal; Cary C. Owen; Donald D. Pollock; Prezell R. Robinson; Norma B. Turnage; State Treasurer Harlan E. Boyles; and Lt. Governor James C. Gardner; in their official capacities as members of The North Carolina State Board of Education, Counterclaim Defendants* [328 N.C. 456, 402 S.E.2d 556 (1991)].

15A NCAC 7H .0308 - SPECIFIC USE STANDARDS

The North Carolina Court of Appeals, per Judge Sidney S. Eagles Jr., held that it was error for the Coastal Resources Commission to fail to follow the required notice and comment procedure prior to the adoption of temporary rule 15A NCAC 7H .0308(a)(1)(M), but that the CRC followed proper procedures when it adopted the text of the temporary rule as a permanent rule [15A NCAC 7H .0308(a)(1)(M)]. *Conservation Council of North Carolina v. Haste* [102 N.C. App. 411, 402 S.E.2d 447 (1991)].

NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

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5	Correction	Chiropractic Examiners	10
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